



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person from **September 7, 2007 and ending at 5:00 p.m. on October 22, 2007**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407 and 33294 of the Food and Agricultural Code, and to implement, interpret or make specific sections 32506, 32761, 32761.5, 32794, 32814, 33292, 33294, 33296, 33451, 33453, 33515, 33551, 33581, 33552, 35781, 35861, 35891, 35924, 36091, 36092 and 36123, Food and Agricultural Code, the Department proposes to adopt section 606 of Article 21, Chapter 1, Division 2, of Title 3 of the California Code of Regulations, as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law, Food and Agricultural Code section 32814 specifies that, in addition to any other penalty or fine prescribed by law, a dairy producer found to have produced milk in violation of the drug residue provisions of Chapter 2, Part 1, Division 15, shall be liable to the Department of Food and Agriculture (Department) for investigation and enforcement costs.

Existing Law, Food and Agricultural Code section 33294 sets forth the fees for initial dairy farm inspection activities. This section also authorizes the Department to charge fees for follow-up dairy farm inspection activities for a facility out of compliance in the initial inspection.

In compliance with section 33294, the Department proposes to adopt section 606 of Article 21 (Milk Inspection Services), of Chapter 1, Division 2, of Title 3 of the California Code of Regulations, to specify fees for follow-up inspection activities on dairy farms. Also, the Department is incorporating by reference the written notice issued to dairy farms titled, *Official Order, Form 72-094 (Rev. 02/04)*, which is referenced in this proposal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This proposal affects individuals and businesses engaged in the business of producing milk in California. The cost impacts that a business would necessarily incur in reasonable compliance with the proposed action are the payment of fees to the Department for the reinspection of a dairy farm found to be noncompliant with existing statutes and regulations. In making these determinations, the Department has considered alternatives that would lessen any adverse economic impact on businesses.

The alternatives available to the Department were to implement dairy farm follow-up inspection fees mea-

surably less than those proposed, or not seek any fees to recover costs of follow-up inspection services, which are not viable options based upon the following:

- A fee schedule for any amount measurably less than that specified in this proposal will not cover the costs of inspection services provided by the Department.
- The proposed fees will ensure the continuity of the program to conduct follow-up inspection services to those dairies found to be out of compliance with the initial, or routine inspections as mandated by sections 32814 and 33294 of the Food and Agricultural Code.
- The proposed fees are necessary to maintain and/or retain the current level of professional staffing by the Department to conduct inspection activities on dairy farms to ensure product safety and sanitation standards of the dairy industry.

The Department invites the public to submit alternatives to this proposal during the written comment period.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or entity would necessarily incur in reasonable compliance with the proposed action are the payment of fees to the Department for the reinspection of a dairy farm found to be noncompliant with existing statutes and regulations.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-170, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations, or any written comments, facsimiles or electronic mail concerning this proposal, is to be addressed to the following:

Name: Kristen Dahl, Agriculture Program Supervisor
Address: Department of Food and Agriculture
Milk and Dairy Food Safety Branch
1220 N Street
Sacramento, CA 95814
Telephone No.: (916) 654-1981
Fax No.: (916) 653-7512
E-mail address: KDahl@cdfa.ca.gov

The backup contact person is:

Name: Nancy Grillo, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 651-7280

Fax No.: (916) 653-4249
 E-mail address: NGrillo@cdfa.ca.gov
Website Access: Materials regarding this proposal
 can be found at www.cdfa.ca.gov

Alison Breen, Legislation and Regulation
 Coordinator
 Department of Industrial Relations
 Division of Labor Standards Enforcement
 801 K Street, Suite 2100
 Sacramento, CA 95814
 E-mail: abreen@dir.ca.gov
 FAX (916) 322-1267

TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

NOTICE OF PROPOSED RULEMAKING

The Department of Industrial Relations (Department) proposes to adopt the regulation described below after considering all comments, objections or recommendations regarding the proposed action. Specifically, the Department proposes to adopt Section 13800, Collection Cost Fees: Referrals to the Franchise Tax Board, in Title 8 of the California Code of Regulations, to establish a collection cost fee which will be imposed on judgment debtors that have been referred by the Department and its component divisions to the Franchise Tax Board (FTB) for collection.

PUBLIC HEARING

The Department has scheduled a public hearing on this proposed action:

Date: October 22, 2007
 Time: 10:00 a.m.
 Place: 801 K Street, 23rd Floor Conference Room
 Sacramento, CA 95814

Please note that public comment will begin promptly at 10:00 a.m., and will conclude at 12 noon or when the last speaker has finished his/her presentation, whichever occurs first. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or authorized representative, may submit written comments to the Department relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on October 22, 2007. The Department will consider only comments received in its office by that time. All comments must be submitted in writing (by mail, fax, or e-mail) and received by that time by the Department's Legislation and Regulation Coordinator. Submit comments to:

AUTHORITY AND REFERENCE

Revenue and Taxation Code §19290(a) authorizes the Department to promulgate the proposed regulation, which will implement, interpret and make specific Revenue and Taxation Code §19290(a) as follows:

Revenue and Taxation Code §19290(a) specifies that the Department is to enter into an interagency agreement with the FTB to collect unsatisfied judgments and delinquent debts assessed under the Labor Code. This statutory section also provides that the Department is to adopt rules and regulations to provide for a reasonable fee to cover actual collection costs, and that, whenever possible, the collection costs shall be borne by the judgment debtor.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing statute specifies that the Department is to enter into an interagency agreement with the FTB to collect unsatisfied judgments (issued pursuant to Labor Code §§ 98.2, 226.5, 1023, 1289, 2681, and 6650) and delinquent debts based upon final determinations by the Department following the exhaustion of appeal remedies (pursuant to Labor Code §§ 98.3, 210, 1174.5, 1193.6, 1194, 1194.2, 1197.1, 1197.5, 1771, 1774, 3722, 7314, 7350, 7721, and 7904). This statutory section also provides that the Department is to adopt rules and regulations to provide for a reasonable fee to cover actual collection costs, and that, whenever possible, the collection costs shall be borne by the judgment debtor.

The proposed regulation would establish a collection cost fee which will be imposed on the judgment debtor to cover actual collection costs.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandate Determination:

The Department has determined that the proposed regulatory action does not impose any mandate on local agencies or school districts.

Costs on Local Agencies or School Districts:

The Department has determined that no nondiscretionary costs or savings to local agencies or school dis-

tricts will result from the proposed regulatory action. Furthermore, the Department has determined that the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code Section 17561.

Cost or Savings to State Agencies:

The Department has estimated that a total annual savings of approximately \$55,200 to the State will result from the proposed regulatory action. This figure was arrived at by multiplying: [the collection cost fee] by [the estimated number of annual cases] by [the percentage of cases in which recovery is successful]. Specifically:

$\$115 \text{ [collection cost fee]} \times 2,400 \text{ [estimated number of annual cases]} \times 20\% \text{ [percentage of cases for which collection is successful]} = \$55,200 \text{ [annual total of collection cost fees recovered]}$

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

The Department has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact on directly affected businesses, including the ability of California businesses to compete with businesses in other states.

Creation, Elimination, or Expansion of Jobs or Businesses (Results of Assessment under Government Code Section 11346.3(b)):

The Department has made an initial determination that adoption of this regulation will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.

Effect on Small Business:

The Department has determined that this proposed regulation will affect small businesses.

Cost Impacts on Representative Private Persons or Businesses:

The Department has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The proposed fee of \$115 would be imposed on each judgment or delinquent debt referred by the Department to FTB for collection. The proposed amount of the fee is relatively low. Consequently, any potential cost impact on representative private persons or businesses would be insignificant and minimal.

Effect on Federal Funding to the State:

The Department has determined that the proposed regulatory action results in no cost or savings in federal funding to the State.

Effect on Housing Costs:

The Department has made an initial determination that the adoption of this regulation will have no significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, the Department must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing or during the written comment period.

CONTACT PERSONS

The text of the proposed regulation, the initial statement of reasons, and the modified text of the regulation, if any, may be accessed at the Department's website (<http://www.dir.ca.gov>). Requests for paper copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based should be directed to:

Alison Breen, Legislation and Regulation
Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement
801 K Street, Suite 2100
Sacramento, CA 95814
Telephone: (916) 322-3157
FAX (916) 322-1267

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following backup contact person:

Robert Villalovos, Staff Counsel
Department of Industrial Relations
Division of Labor Standards Enforcement
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
Telephone: (916) 263-2918

Inquiries concerning the substance of the proposed action may be directed to Alison Breen at the address and phone number specified above.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its San Francisco headquarters office at 455 Golden Gate Avenue, 9th Floor West, San

Francisco, CA 94102. A copy will also be available at 801 K Street, Suite 2100, Sacramento, CA 95814, as specified herein. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulation are also available on the Department's website (<http://www.dir.ca.gov>). As of the date this notice is published in the Notice Register, the rule-making file consists of: (1) this notice; (2) the proposed text of the regulation; (3) the initial statement of reasons; (4) the Economic and Fiscal Impact Statement (Form 399); (5) 2006/2007 Interagency Agreement between the Department and FTB for collection services; and (6) May 2004 Bureau of State Audits Report 2003-131. Copies may be obtained by contacting Alison Breen at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Department adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Alison Breen at the address indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the Department's website (<http://www.dir.ca.gov>).

TITLE 11. PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION

Training and Testing Specifications for Peace Officer Basic Courses **Regulations 1005, 1007, 1008**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to

amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by October 22, 2007, at 5:00 PM

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at 916.227.5271 or by letter to the:

Commission on POST
Attention: Rulemaking
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses, and Penal Code § 13519.12 — POST authority to establish training standards involving the responsibilities of first responders to terrorism incidents and training standards for related instruction.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

All changes to academy curriculum begin with recommendations from law enforcement practitioners or, in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and SMEs who provide recommended changes to existing academy curriculum. The AAC, chaired by POST personnel and comprised of academy directors and coordinators, receives the recommendations for approval. At

the Basic Course Consortium quarterly meetings facilitated by POST, all academies review the SAC approved recommendations. Once approved by majority vote of all academies, a Test Review Panel, also comprised of academy administrators that identify testing questions and pass point thresholds for the new curriculum, receive the recommendations. At its quarterly meeting, the POST Commission makes a final review of the completed work of all committees. In addition to amending the learning domains for the aforementioned reasons, the SMEs also propose non-substantial changes at the same time to improve clarity and readability of the domains.

At its July 19, 2007 meeting, the Commission approved proposed amendments to Learning Domains (LDs) throughout the *Training and Testing Specifications for Peace Officer Basic Courses* publication, incorporated by reference into POST Regulations 1005, 1007 and 1008. The proposed changes accomplish the following:

- Modify language for clarification, accuracy, and grammar purposes.
- Update content as part of routine maintenance to coincide with Subject Matter Experts (SME) and the POST Academy Advisory (AAC) Committee recommendations.
- To more accurately identify the LD content, change the LD 29 title from *Traffic Accident Investigations* to *Traffic Collision Investigations* and the LD 30 title from *Preliminary Investigation to Crime Scenes, Evidence, and Forensics*
- Remove the California Specialized Training Institute instructor requirement for LERT and SEMS Training in LD 43, *Emergency Management* because instructor training is permissible through other POST-certified presenters throughout the state.

Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test to the updated curriculum. The proposed effective date is January 1, 2008. Approval of the proposed regulation via the Administrative Procedure Act will add this curriculum to POST regulations.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with

§ 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code section 11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs, will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

Contact Persons

Please direct inquiries or written comments about the proposed regulatory action to the following:

Patricia Cassidy
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
916.227.4847 or Patricia.Cassidy@post.ca.gov
916.227.5271 (FAX)

or

Julie Hemphill
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
916.227.0544 or Julie.Hemphill@post.ca.gov

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>

Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person name above.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATIONS REGARDING NEW AFTERMARKET AND USED CATALYTIC CONVERTERS OFFERED FOR SALE AND USE IN CALIFORNIA

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to California's regulations regarding new aftermarket and used catalytic converters sold, offered for sale, or advertised for use on California motor vehicles, or installed on California motor vehicles.

DATE: October 25, 2007

TIME: 9:00 am.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 25, 2007, and may continue at 8:30 a.m., October 26, 2007. This item may not be considered until October 26, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before October 25, 2007, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 2222, title 13, California Code of Regulations, Add-on Parts and Modified Parts, and proposed adoption of the incorporated document, "California Evaluation Procedures for New Aftermarket Catalytic Converters."

Background: California Vehicle Code sections 27156 and 38391 generally prohibit the sale, offer for sale, advertisement, or installation of any device that alters the design or performance of any required motor vehicle pollution control device or system. ARB has the authority to exempt non-original equipment components from this prohibition if it determines that such components will not reduce the effectiveness of any required pollution control device or would not cause vehicle emissions to exceed applicable standards.

Within this context, ARB has promulgated regulations that allow the sale of new aftermarket catalytic converters and used original equipment converters if they comply with established performance and other criteria. The availability of these aftermarket converters creates a less expensive option for vehicle owners needing a new catalytic converter compared to the cost of purchasing an original equipment manufacturer (OEM) catalytic converter. The performance requirements for these aftermarket converters balance the continued need to control in-use emissions from motor vehicles as they age with the cost of replacing catalytic converters on vehicles that often have a limited remaining lifetime and relatively low market value.

The ARB's current aftermarket converter requirements, adopted in 1988, specify fixed minimum conversion efficiencies that aftermarket converters must meet through 25,000 miles of use. However, with the significant advances in the emission-control performance and durability of motor vehicles that have oc-

curred since 1988, improvements to the performance requirements for non-original equipment aftermarket catalytic converters are needed to keep pace.

Proposed Amendments: Current aftermarket catalyst evaluation procedures require new aftermarket catalytic converters to be at least 70 percent efficient in converting hydrocarbons (HC) and carbon monoxide (CO) emissions in the exhaust stream, and 60 percent efficient for reducing oxides of nitrogen (NOx) pollutants, for a period of 25,000 miles.

The amendments proposed by staff would replace these requirements with performance standards based on reducing engine out emissions to levels allowing in-use vehicles equipped with aftermarket catalysts to comply with certification emission standards for a period of 5 years or 50,000 miles. The proposed requirements would apply to all new aftermarket catalytic converters sold, advertised, or installed on or after January 1, 2009. The amendments would also require manufacturers to demonstrate that their new aftermarket converters are compatible with catalytic converter malfunction detection monitoring that is part of the on-board diagnostic system (OBD II system) on 1996 and newer model year vehicles. Manufacturers would need to demonstrate that new aftermarket catalytic converters would not cause the test vehicle's Malfunction Indicator Light (MIL) to illuminate when the catalyst is functioning properly, and that the test vehicle's OBD II system would detect an aged converter by the time its conversion efficiency decreases to a level causing the vehicle emissions to exceed the manufacturers' limits for malfunction detection by no more than a factor of 50 percent.

Staff is also proposing amendments to extend the current warranty period for new aftermarket converters from 25,000 miles to 5 years or 50,000 miles, establish warranty data reporting requirements, require more informative labeling on the shell of the catalytic converter, and establish requirements for quality control checks on the converter manufacturing process.

The proposed amendments would sunset ARB's existing provisions allowing the sale of used original equipment catalytic converters for California vehicles, effective July 1, 2008 or 30 days after the amendments are filed with the Secretary of State's office, whichever date is later. Current methods used to screen the condition of used catalytic converters before resale are not sophisticated enough to ensure levels of performance necessary for current technology motor vehicles to meet emission standards. The staff believes that adequately improved screening methods would not be economically practical (i.e., screening costs would exceed the value of the used converter itself). Without an economically feasible way to ensure that used converters function at

levels appropriate for the vehicle models they would be installed on, benefits to air quality may not be realized.

COMPARABLE FEDERAL REGULATIONS

Aftermarket catalytic converters are legal for sale federally under an enforcement policy established by the United States Environmental Protection Agency (U.S. EPA) in 1986. Under this policy, aftermarket catalytic converters must achieve at least 70 percent conversion efficiency for HC and CO emissions, and 30 percent for NOx emissions. With the exception of the lower NOx efficiency, the federal requirements are very similar to California's existing requirements. Therefore, as described above, the proposed amendments would significantly strengthen California's requirements for new aftermarket catalytic converters compared to U.S. EPA's guidelines in terms of required conversion efficiencies and converter durability.

Current U.S. EPA policy permits the sale of used original equipment catalytic converters if they are screened to ensure they perform at levels generally comparable to those required for new aftermarket converters. ARB is proposing to sunset California's similar provisions because screening methods to ensure that used original equipment converters can perform at levels comparable to staff's proposed requirements for new aftermarket converters are not economically feasible.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Public Hearing to Consider Amendments to Regulations Regarding New Aftermarket Catalytic Converters and Used Catalytic Converters Offered for Sale and Use in California."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on October 25, 2007.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency

contact persons, Allen Lyons, Staff Air Pollution Specialist, at (626) 698-1966 or alyons@arb.ca.gov, or Michael McCarthy, Manager, Advanced Engineering Section, at (626) 771-3614 or mmccarth@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/amcat07/amcat07.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed amendments would not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulatory action would result in some additional costs to ARB and could create negligible costs to all other state agencies that operate fleet vehicles that are 1995 or older model year and undergo a future repair involving replacement of the catalytic converter. In addition, the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, will not create costs or savings to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, and will not result in other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses, and has determined that businesses or individuals that purchase new aftermarket catalytic converters for their motor vehicles would incur additional costs as a result of this regulation. Specifically, retail costs for new aftermarket converters would increase by \$200 on average. When

considering the increased durability of the converters meeting ARB staff's proposed requirements, staff estimates the price increase would amount to 10 to 28 cents per 100 miles of vehicle operation.

The proposed amendments to sunset provisions for the sale of used original equipment catalytic converters would limit converter replacement options to the purchase of a new aftermarket catalytic converter or a new original equipment converter. In cases where a new aftermarket converter is not available for a particular vehicle model, private persons and businesses could incur additional costs of \$500 or more in purchasing a new original equipment converter compared to the cost of a used catalytic converter (assuming a used converter would have been available absent adoption of the proposed amendments). Staff has determined that such circumstances are likely to be limited to low-volume vehicle models with unique original equipment catalytic converter designs.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action could result in the elimination of a small number of jobs within the State of California. The ARB staff's proposal to sunset provisions for the sale of used original equipment catalytic converters would impact three businesses that currently offer these converters for sale in California. Employees that acquire, refurbish, or market used catalytic converters specifically for California vehicles would be impacted. Staff believes that no more than 10 jobs statewide would be eliminated. Overall, the volume of used converters sold in California is relatively small, making up less than 2 percent of the California replacement catalytic converter market. Although businesses that currently offer used catalytic converters for sale in California would be negatively impacted, staff does not believe its proposal would result in their elimination because used catalytic converters would remain legal for sale outside of California, and non-California sales currently make up the majority of their business activity. The Executive Officer has determined that the proposed regulatory action would not result in the creation of new jobs or businesses within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses that distribute used catalytic converters for sale in California. As dis-

cussed above, staff's proposal to sunset provisions permitting the sale of used converters in California would reduce their nationwide market. Retail providers of replacement catalytic converters would not be significantly impacted because the majority of their business involves the sale of new aftermarket catalytic converters. The small portion of their business that involves the sale of used catalytic converters would likely be replaced by increased new aftermarket converter sales.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by email before the meeting. To be considered by the Board, written comment submissions not physically submitted at the meeting must be received **no later than 12:00 noon, October 24, 2007**, and addressed to the following:

Postal mail: Clerk of the Board, Air
Resources Board
1001 I Street, Sacramento,
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of

staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, 43000, 43000.5, and 43011, and Vehicle Code sections 27156, 38391 and 38395. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39500, 43000, 43000.5, 43011, 43204, 43205, and 43644, Health and Safety Code, and Sections 27156, 38391, and 38395, Vehicle Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 13. CALIFORNIA HIGHWAY PATROL

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

13 CCR, CHAPTER 10, SECTION 1800 CONFLICT OF INTEREST CODE FOR THE CALIFORNIA HIGHWAY PATROL (CHP-R-07-01)

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations relating to the Conflict of Interest Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The Appendix to Section 1800, Title 13, California Code of Regulations, lists the positions subject to reporting requirements of the CHP's Conflict of Interest Code and defines the disclosure categories. This amendment replaces the Appendix with Appendix A and Appendix B as follows:

1. Appendix A lists designated positions, formatted to coincide with the CHP's organization chart. In most cases, specific position titles are used in each respective office/Division within the CHP. Disclosure categories have been assigned in accordance with Appendix B for each of the designated positions based on the level of decision-making authority or participation in decision-making.
2. Appendix B lists the disclosure categories developed using the Fair Political Practices Commission approved "Model."

PUBLIC COMMENTS

Any interested person may submit written comments on the proposed action via facsimile at (916) 375-2199 or by writing to:

California Highway Patrol
Selection Standards and Examinations Section
ATTN: Conflict of Interest Filing Officer
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until November 6, 2007.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Selection Standards and Examinations Section (SSES), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text in strikeout/underscore format. Requests to review or receive copies of this information should be directed to Ms. Cheryl Walker, commander of SSES, at the foregoing address or by calling (916) 375-2180. Facsimile re-

quests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 444 North Third Street, Sacramento. Interested parties are advised to call (916) 445-1865, for an appointment.

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our website.

QUESTIONS

Any questions concerning the contents of the proposed regulations should be directed to Ms. Cheryl Walker, commander of SSES, or Ms. Debbie Schmick at (916) 375-2180.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantial in nature, the full text of the proposed regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no increased nondiscretionary or reimbursable costs or savings to any local agency, school district, state agency or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not result in any significant cost to private persons or entities.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily

incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action will not affect small businesses. This proposed regulatory action makes only technical, non-substantive or clarifying changes to current law and regulations.

ALTERNATIVES

This regulatory action is being taken pursuant to Vehicle Code Section 2402 and Government Code Section 87300. In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment included consideration of the "Plain English" requirement. Any technical terms that may be unfamiliar to the intended users are defined and explained.

AUTHORITY

This regulatory action is being taken pursuant to Government Code Section 87306.

REFERENCE

This action implements, interprets, or makes specific Government Code Section 87300.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 225.38 and amend Sections 225.00, 225.03, 225.06, 225.09, 225.21, 225.35,

225.45, 225.48, 225.54, and 225.72, in Chapter 1, Division 1, Article 3.6, of Title 13, California Code of Regulations to amend program requirements and add new types of vehicle transactions to the Business Partner Automation (BPA) program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on *October 22, 2007*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Section 1685 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1685 authorizes the department to contract with private industry partners to electronically process and update registration and titling transactions. The proposed regulation will amend program requirements and authorize a new registration transaction option.

§225.00 Definitions. Section 225.00 is proposed to be amended to identify the new inventory items authorized when the proposed vehicle transactions are processed by the business partners.

§225.03 Application Requirements. Section 225.03 is proposed to be amended to identify the revised original application forms which would include the new transactions, amend the mail station address where the applications are to be sent for review, and clarify the form number for the Business Partner Au-

tomation Program Information Security Pre-Implementation Checklist for Second-Line Business Partner form.

§225.06 Fingerprints. Section 225.18 is proposed to be amended to correct a grammatical error.

§225.09 Financial Security Requirements. Section 225.09 is proposed to be amended to identify the revised surety bond, add the transaction to the appropriate bond amounts, delete the business partner obligations, would allow the surety bond alternative as specified in the Code of Civil Procedure section 999.710 and identify the agreement and assignment form required for the surety bond alternative process.

§225.21 Review of Criminal History Information. Section 225.21 is proposed to be amended to identify the revised *Occupational Licensing and Disciplinary Guidelines* document incorporated by reference in Section 440.04, Article 6.1, Title 13, of the California Code of Regulations.

§225.35 Renewal. Section 225.35 is proposed to be amended to identify the revised renewal form that included the new transactions.

§225.38 Business Partner Obligations. Section 225.38 is proposed to be adopted to identify for each business partner its fiduciary responsibilities to the BPA program and the obligations to the state of California.

§225.45 Customer Fees. Section 225.45 is proposed to be amended to identify the five (5) new transactions available for processing by business partners.

§225.48 Transaction Fee. Section 225.48 is proposed to be amended to identify the new mail station of the BPA Program Administrator.

§225.54 Transaction Procedures and Inventory Requirements. Section 225.54 is proposed to be amended to identify the new revision date of the transaction procedures and inventory requirements handbook which would include the five (5) new vehicle registration transactions and processing procedures.

§225.72 Voluntary Closing. Section 225.72 is proposed to be amended to identify the revised name of the departments' Forms and Accountable Items Section and the change in mail stations for the BPA Program Administrator and the Field Office Support Unit.

DOCUMENTS INCORPORATED BY REFERENCE

- BPA Transaction Procedures and Inventory Requirements Handbook (July 2007)
- Business Partner Automation Application, First-Line Business Partner REG 4024 (Rev. 7/2007)

- Business Partner Automation Application, First-Line Service Provider REG 4023 (Rev. 7/2007)
- Business Partner Automation Application, Second-Line Business Partner REG 4025 (Rev. 7/2007)
- Business Partner Automation Surety Bond REG 866 (Rev. 7/2007)
- Business Partner Automation Program Renewal Application REG 5056 (Rev. 7/2007)
- Business Partner Deposit Agreement and Assignment REG 4039 (NEW 7/2007)
- Business Partner Automation Program Information Security Pre-Implementation Checklist:
First-Line Business Partner & First-Line Service Provider EXEC 5555A (NEW 11/2002)
Second-Line Business Partner EXEC 5555B (NEW 11/2002)

The documents are not published in Title 13 because it would be impractical and cumbersome to publish them in the department's regulations. The handbook is presently available on the department's Internet website and all the documents and the handbook are available from the department upon request. To view the proposed revised handbook or receive a copy by mail, see page four (4) of the notice, the section entitled *Availability of Statement of Reasons and Text of Proposed Regulation* for the webpage link and the department's contact person.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations implement existing statutes by allowing a business partner, as authorized in Vehicle Code section 1685, to process additional vehicle registration transactions.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create or eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the proposed regulatory action implements existing statutes by expanding the types of vehicle registration transactions available for processing by a business partner.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Erik Meyer, at (916) 657-3279 or e-mail emeyer@dmv.ca.gov. The

fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, BPA Transaction Procedures and Inventory Requirements Handbook and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED REGULATIONS TO REDUCE EMISSIONS FROM DIESEL ENGINES ON COMMERCIAL HARBOR CRAFT OPERATED WITHIN CALIFORNIA WATERS AND 24 NAUTICAL MILES OF THE CALIFORNIA BASELINE

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted be-

low to consider adoption of regulations to reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from the use of diesel engines on commercial harbor craft operating in any California port, roadstead or terminal facility or within all California inland waters; all California estuarine waters; and within 24 nautical miles, except as otherwise specified in this proposal, of the California baseline (collectively referred to hereinafter as "Regulated California Waters"). Any person who sells, supplies, offers for sale, purchases, owns, operates, leases, charters, or rents any commercial harbor craft that operates in any of the Regulated California Waters would be subject to and have responsibilities under these regulations. This notice summarizes the proposed regulations. The Staff Report and Technical Support Document present the regulations and information supporting the adoption of the regulations in greater detail.

DATE: October 25, 2007

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., October 25, 2007, and may continue at 8:30 a.m., October 26, 2007. This item may not be considered until October 26, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before October 25, 2007, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new section 2299.5, title 13, California Code of Regulations (CCR) and new section 93118.5, title 17, CCR. The following documents would be incorporated in the regulations by reference: (1) International Standard ISO 8178-4(E):1996, "Reciprocating Internal Combustion Engines — Exhaust Emission Measurement — Part 4:

Test Cycles for Different Engine Applications"; (2), International Standard ISO 8178-2(E):1996, "Reciprocating Internal Combustion Engines — Exhaust Emission Measurement — Part 2: Measurement of Gaseous and Particulate Exhaust Emissions at Site;" (3) U.S. Environmental Protection Agency (U.S. EPA) Marine Engine standards, Tier 1 and Tier 2, as set forth in 40 Code of Federal Regulation (CFR) Part 94; (4) U.S. EPA proposed Marine Engine standards, Tier 3 and Tier 4, as set forth in "Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters Per Cylinder" (72 Federal Register 15937 et seq. (April 3, 2007)); (5) the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts, as authored by the NOAA Office of Coast Survey: (A) Chart 18600, Trinidad Head to Cape Blanco (January 2002), (B) Chart 18620, Point Arena to Trinidad Head (June 2002), (C) Chart 18640, San Francisco to Point Arena (August 2005), (D) Chart 18680, Point Sur to San Francisco (June 2005), (E) Chart 18700, Point Conception to Point Sur (July 2003), (F) Chart 18720, Point Dume to Purisima Point (January 2005), and (G) Chart 18740, San Diego to Santa Rosa Island (April 2005); (6) ASTM D975-81, "Standard Specification for Diesel Fuel Oils" (as modified in May 1982); (7) "Control of Emissions of Air Pollution from New Marine Compression Ignition Engines At or Above 37 KW" (64 FR 73299 et seq., December 29, 1999); and (8) "Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines," 13 CCR 2700 et seq.

Background: Over 90 percent of Californians breathe unhealthful air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources. To reduce emissions from off-road sources, such as marine vessels, ARB has adopted a series of regulations since 2004 that: (1) require diesel fuel sold for use in harbor craft comply with CARB diesel specifications¹ and, (2) require ocean-going vessels with diesel auxiliary engines to comply with specified diesel fuel and other requirements while operating in Regulated California Waters.² Although those regulations are reducing air pollution from marine vessels, significant opportunities exist to further reduce emissions from the thousands of commercial harbor craft vessels that operate within the State and in Regulated California Waters.

¹ ARB's fuel standards for harbor craft are codified at title 13, CCR, section 2299.

² ARB's fuel standards and other requirements for diesel auxiliary engines on ocean-going vessels are codified at title 13, CCR, section 2299.1 and title 17, CCR, section 93118.

Control of Criteria Air Pollutants

Health and Safety Code (HSC) sections 43013 and 43018 direct ARB to adopt standards and regulations that the Board has found to be necessary, cost-effective, and technologically feasible for various mobile source categories, including off-road diesel engines and equipment such as marine vessels, through the setting of emission control requirements. Specifically, HSC section 43013(b) directs ARB to adopt such standards and regulations for marine vessels to the extent permitted by federal law.

Control of Toxic Air Contaminants

The California Toxic Air Contaminant Identification and Control Program (Air Toxics Program), established under California law by Assembly Bill 1807 (Stats. 1983, ch. 1047) and set forth in HSC sections 39650 through 39675, requires ARB to identify and control air toxicants in California. The identification phase of the Air Toxics Program requires ARB, with participation of other state agencies such as the Office of Environmental Health Hazard Assessment, to evaluate the health impacts of, and exposure to substances, and to identify those substances that pose the greatest health threat as toxic air contaminants (TACs). The ARB's evaluation is made available to the public and is formally reviewed by the Scientific Review Panel (SRP) established under HSC section 39670. Following ARB's evaluation and the SRP's review, the Board may formally identify a TAC at a public hearing. Following identification, HSC sections 39658, 39665, and 39666 require ARB, with participation of the air pollution control and air quality management districts (districts), and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance (a "needs assessment") and to adopt airborne toxic control measures (ATCMs).

In 1998, the Board identified diesel PM as a TAC with no Board-specified threshold exposure level. A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in ARB staff developing and the Board approving a Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP) in 2000. The Diesel RRP presented information that identified the available options for reducing diesel PM and recommended control measures to achieve further reductions. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary, and included control measures for private and public fleets of off-road diesel engines, such as those covered by the proposed regulations. The ultimate goal of the Diesel RRP is to reduce California's diesel PM emissions and associated cancer risks from 2000 baseline levels by 85 percent by 2020.

The purpose of this proposed regulatory action is to reduce emissions of diesel PM and NOx. Diesel PM emission reductions are needed to reduce the potential cancer risk and other adverse effects from PM exposure to people who live in the vicinity of California's major ports, harbors, and shipping lanes. Reductions in diesel PM and NOx (which forms "secondary" nitrate PM in the atmosphere) will also contribute to regional PM reductions that will assist in California's progress toward achieving State and federal air quality standards. Reductions in NOx, an ingredient in the formation of ozone pollution, will also help reduce regional ozone levels.

Diesel engines on commercial harbor craft vessels are a significant source of diesel PM and NOx emissions in California. A recent ARB exposure study for the ports of Los Angeles and Long Beach showed commercial harbor craft to be the third highest source for elevated cancer risk at the ports. The United States Environmental Protection Agency (U.S. EPA) has proposed "Tier 3" standards for new marine engines, such as those used in commercial harbor craft, beginning in 2009 and more stringent "Tier 4" standards for new engines beginning in 2014.³ However, the U.S. EPA proposed standards, even if promulgated, apply only to new marine engines and would not affect in-use engines. Thus, significant opportunities exist to further reduce emissions from the approximately 1900 diesel engines on in-use ferries, excursion vessels, tugboats, and towboats that currently operate in the State.

Attainment of Ambient Air Quality Standards

The federal Clean Air Act (CAA) requires U.S. EPA to establish National Ambient Air Quality Standards (Standards) for pollutants considered harmful to public health, including fine particulate matter (PM_{2.5}) and ozone. Set to protect public health, the Standards are adopted based on a review of health studies by experts and a public process. Ambient PM_{2.5} is associated with premature mortality, aggravation of respiratory and cardiovascular disease, asthma exacerbation, chronic and acute bronchitis and reductions in lung function. Ozone is a powerful oxidant. Exposure to ozone can result in reduced lung function, increased respiratory symptoms, increased airway hyper-reactivity, and increased airway inflammation. Exposure to ozone is also associated with premature death, hospitalization for cardiopulmonary causes, and emergency room visits for asthma.

Areas in the State that exceed the Standards are required by federal law to develop State Implementation Plans (SIPs) describing how they will attain the stan-

³ See *Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters Per Cylinder* (72 Fed.Reg. 15937 et seq. (Apr. 3, 2007)).

dards by certain deadlines. The NO_x emission reductions are needed because NO_x leads to formation in the atmosphere of both ozone and PM_{2.5}; diesel PM emission reductions are needed because diesel PM contributes to ambient concentrations of PM_{2.5}. At this time, the South Coast and San Joaquin Valley air basins are both required to attain the PM_{2.5} standard by 2015. The U.S. EPA further requires that all necessary emission reductions be achieved one calendar year sooner — by 2014 — in recognition of the annual average form of the standard. By contrast, San Joaquin Valley and South Coast air basins are expected to have until 2023 to attain the federal ozone standard, by invoking the “bump-up” provision in the CAA.

The ARB and the districts are working to complete the ozone and PM_{2.5} SIPs and expect to submit them to the U.S. EPA by this fall and April 2008, respectively. Air quality modeling indicates that significant reductions of NO_x are crucial to help meet both these standards. At this time, staff estimates that a 60 percent reduction in NO_x emissions from 2006 levels (i.e., a total reduction of hundreds of tons per day) and a 12 percent reduction in direct PM_{2.5} emissions will be necessary for attainment of the PM_{2.5} standards in the South Coast Air Basin. Emission reduction targets have not yet been set for achieving the PM_{2.5} standard in the San Joaquin Valley Air Basin, but are expected to be significantly lower. While all sources of NO_x emissions are important contributors to PM_{2.5}, marine vessels, which include commercial harbor craft engines, constitute one of the key categories that will determine whether California is able to meet the 2014 deadline for PM_{2.5} attainment in the South Coast Air Basin.

Control of Emissions from Goods Movement-related Activities

In January 2005, a Goods Movement Cabinet Workgroup, created by Governor Schwarzenegger and led by the California Environmental Protection Agency and the Business, Transportation and Housing Agency, established a policy for goods movement and ports to improve and expand California’s goods movement industry and infrastructure while improving air quality and protecting public health. The workgroup worked collaboratively with the logistics industry, local and regional governments, neighboring communities, business, labor, environmental groups, and other interested stakeholders to create a two-phased Goods Movement Action Plan (GMAP), which outlines a comprehensive strategy to address the economic and environmental issues associated with moving goods via the state’s highways, railways, and ports. In a related activity, the Board adopted the Goods Movement Emission Reduction Plan (GMERP) in April 2006. The GMERP identified a variety of measures to be investigated by ARB for

reducing goods movement-related emissions, including regulations for commercial harbor craft. The final phase of the GMAP was completed in January 2007 and includes a framework for action, which identifies projects needed to reduce emissions from goods movement-related sources, including those from commercial harbor craft engines.

The California Global Warming Solutions Act of 2006

The California Global Warming Solutions Act of 2006 established the first-in-the-world comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases (GHG).^{4, 5} The legislation gave ARB responsibility for monitoring and reducing GHG emissions. The statute requires ARB to adopt regulations and other requirements that would reduce by 2020 statewide greenhouse gas emissions to the equivalent of 1990 levels.

Some actions required by the proposed regulations may result in slightly increased carbon dioxide (CO₂) for some applications. This may occur, for example, if vessel operators choose to comply with the regulations by using exhaust treatment technologies that use vessel power (e.g., scrubbers, selective catalytic reduction), increase the weight of the vessel, or require a larger engine to be installed on the vessel. However, other actions required by the rule will likely offset this effect. For instance, the accelerated phase in of newer engines, which employ modern, less polluting technologies, should reduce GHG emissions from each new engine relative to the older, in-use engines. In addition, the proposed regulations will reduce emissions of black carbon (a component of diesel PM and a likely contributor to global warming), which will further offset the minor increases in CO₂ emissions that may occur in some applications. Thus, staff expects the proposed regulations to have an overall negligible effect on global warming.

Authority

The ARB has authority under California law to adopt the proposed regulations. Health and Safety Code sections 43013(b) and 43018 provide broad authority for ARB to adopt emission standards and other regulations to reduce emissions from new and in-use vehicular, nonvehicular and other mobile sources. Under HSC sections 43013(b) and 43018, ARB is directly authorized to adopt emission standards and other regulations for marine vessels, as expeditiously as possible and to

⁴ Established under California law by Assembly Bill 32 (Stats. 2006, ch. 488) and set forth in HSC § 38500 et seq.

⁵ Greenhouse gases are those that tend to increase average global temperatures through absorption of infrared radiation or other mechanisms. These include, but are not limited to, carbon dioxide (CO₂) and methane (CH₄).

the extent permitted by federal law, to meet state ambient air quality standards. The ARB is further mandated by California law under HSC section 39666 to adopt ATCMs for new and in-use nonvehicular sources, including marine vessels such as commercial harbor craft, for identified TACs such as diesel PM.

Emission Reductions and Public Health Benefits Projected

The proposed regulations are expected to significantly reduce emissions of diesel PM from in-use commercial harbor craft engines. Diesel PM emission reductions are needed to reduce premature mortality, cancer risk, and other adverse impacts from exposure to this TAC. The proposal would help achieve the 2020 goal set forth in the 2000 Diesel RRP of reducing diesel PM by 85 percent from 2000 baseline levels and the 2015 and 2020 goals of the GMAP. Staff projects that, by 2020, the proposed regulations, in conjunction with U.S. EPA cleaner marine new engine standards, use of low sulfur fuel in harbor craft, port clean air plans, engine replacement incentive programs, and a negative growth factor for California's fishing fleet, would reduce in-use commercial harbor craft diesel PM emissions about 70 percent and NOx emissions about 60 percent relative to the 2004 baseline. These emission reductions will occur in areas along waterways and near ports where environmental justice concerns are especially prevalent, as well as further inland.

The proposed regulations would also reduce diesel PM and NOx emissions that contribute to exceedances throughout the State of ambient air quality standards for both PM2.5 and ozone. These reductions will assist California in its goal of achieving state and federal air quality standards.

The diesel PM and NOx emission reductions from the proposal, along with the other efforts and factors mentioned above, are expected to reduce the number of people exposed to a cancer risk of 10 in a million within the 20 square miles surrounding the Los Angeles/Long Beach Ports from 1.7 million in 2004, to 940,000 in 2015, and 630,000 in 2020. Statewide, the emission reductions due specifically to the regulations would be expected to prevent 310 premature deaths and 8,100 cases of asthma-related and other lower respiratory symptoms by the year 2025, as well as other health benefits. The economic benefit for these avoided premature deaths and health costs is estimated to be \$1.3 to \$2.0 billion.

In contrast to the diesel PM and NOx reductions, we are not projecting significant reductions in oxides of sulfur (SOx) from the proposed action. Currently, all diesel fuel sold to harbor craft is required to meet ARB's on-road diesel specifications (CARB diesel). These specifications help reduce SOx emissions, among other

pollutants. However, the existing regulation (title 13, CCR section 2299) only prohibits the sale of noncomplying diesel to harbor craft operators; it does not actually require the use of CARB diesel by operators while their vessels are operating in Regulated California Waters. Thus, to supplement the existing diesel fuel regulation, the proposed action will require harbor craft operators to fuel their diesel engines only with CARB diesel or equivalent fuel, as specified in the proposal.

Staff Report and Further Information

As described in more detail below, ARB staff has prepared two documents as part of this rulemaking, a Staff Report: Initial Statement of Reasons (Staff Report) and a Technical Support Document. Together with the needs assessment (i.e., the Diesel RRP), these two documents serve as the report on the need and appropriate degree of regulation for new and in-use commercial harbor craft in Regulated California Waters.

Description of the Proposed Regulatory Action

Under the approach proposed by staff, the Board would adopt a regulation, pursuant to its authority under HSC sections 43013 and 43018, which would apply to the emissions from diesel engines on commercial harbor craft operating within any of the Regulated California Waters (as defined in the proposal). The Board would also approve adoption of essentially identical provisions as an ATCM, pursuant to its authority under HSC section 39666, which would complement the regulation and provide maximum notice to the regulated community of the regulatory requirements on commercial harbor craft. These measures will hereinafter sometimes be referred to collectively as "the proposed regulations."

Applicability

The proposed regulations apply to any person who owns or operates a commercial harbor craft operating within any of the Regulated California Waters, which include all California inland waters, all California estuarine waters, and all waters within a zone 24 nautical miles seaward of the California coastline, except for specified areas along the Southern California coastline. Regulated California Waters also include all ports, roadsteads, and terminal facilities in California. In general, commercial harbor craft include a variety of vessel types such as ferries, excursion vessels, tugboats, ocean-going tugboats, tow boats, crew vessels, work boats, fishing boats, barges, and others. Industries that use these vessels, such as those providing ferry services, offshore platform suppliers, commercial fishing, touring and excursion services, and many others would be subject to these regulations. Government agencies that own or operate diesel powered harbor craft, such as those engaged in fire protection, dam inspections and repair, marine research and education, and ferry ser-

vices operated by local municipalities would also be affected.

The proposed regulations include language explicitly stating and clarifying that the proposal does not change or supersede any existing United States Coast Guard (U.S.CG) regulations and that vessel owners and operators are responsible for ensuring that they meet all applicable U.S.CG regulations, as well as the proposed regulations.

Exemptions

The proposed regulations include a number of exemptions. First, the proposal does not apply to vessels that travel within the 24 nautical mile boundary off California's coastline without stopping or anchoring. This exemption includes vessels that stop or anchor within 24 nautical miles only under limited situations, such as when the vessel is in distress or must stop to comply with U.S.CG regulations. Also, the following vessel types are exempted from this proposal in its entirety: temporary emergency rescue/recovery vessels, recreational vessels, ocean-going vessels that are not ocean-going tugboats (i.e., ocean-going tugboats and tow boats are subject to the proposal), vessel engines registered with the ARB Portable Engine Registration Program at the time the proposed regulation is approved by the Office of Administrative Law, military tactical support vessels, and all U.S. Coast Guard vessels. Further, temporary replacement vessels and registered historic vessels are exempt from the proposed engine standards and compliance schedule but are otherwise subject to all other requirements. Similarly, low use engines (i.e., those used less than 300 hours per year) would not be subject to the proposed engine standards and compliance schedule but are otherwise subject to all other requirements.

Emission Limits

A regulated diesel engine generally would be limited to the U.S. EPA marine engine standards in effect at the time the engine is due to be brought into compliance with the proposal's requirements. The proposal specifies the compliance schedule for regulated engines. The proposal's requirements involving U.S. EPA's proposed Tier 3 and Tier 4 standards would come into effect only if U.S. EPA finalizes and promulgates those standards as they were specified in 72 Fed.Reg. 15937 et seq. (Apr. 3, 2007). If U.S. EPA promulgates different Tier 3 and Tier 4 standards, a separate rulemaking will be needed to incorporate those Tier 3 and Tier 4 standards.

Newly Acquired Engines and Vessels

The proposed regulations include requirements for newly acquired commercial harbor craft vessels and those engines acquired for use on a vessel after the vessel's initial purchase. These requirements cover both

the acquisition of diesel engines for use in harbor craft and the acquisition of new and in-use harbor craft vessels. These requirements are included to ensure that California's commercial harbor craft fleet becomes cleaner as vessels are added to the California fleet and engines are replaced. The proposed regulations require that only engines meeting the applicable U.S. EPA marine engine standards on the date of engine acquisition (e.g., date when a contract for the purchase of the engine by the vessel owner was executed) be sold for installation on in-use commercial harbor craft. A limited sell-through provision is included in the regulation. The engines on new harbor craft would be required to meet the standards in effect on the date of vessel acquisition (e.g., date when a contract to buy the vessel was executed). The sale of in-use vessels would be subject to the engine compliance schedule but would not be otherwise restricted. The propulsion engines on new ferries would have additional requirements for NOx or PM emissions to be cleaner than the U.S. EPA marine engine standards in effect on the date of vessel acquisition.

In-Use Vessels

In addition to the above, the proposed regulations would require that currently unregulated (a.k.a. "Tier 0") and Tier 1 in-use propulsion and auxiliary marine engines on ferries, excursion vessels, tugboats, and towboats meet emission limits equal to or cleaner than the U.S. EPA marine engine standards in effect for the year that in-use engine compliance is required under this proposal. In other words, engines that are not currently subject to any emission standards (Tier 0) will eventually be brought into compliance with standards specified in the proposal. A compliance schedule, designed to clean up the oldest dirtiest high use engines first, would be based on the in-use engine model year and hours of operation. The proposed regulations include an accelerated compliance schedule for harbor craft with homeports in the South Coast Air Quality Management District to provide early benefits for the South Coast Air Basin, which is in non-attainment for both ozone and PM2.5.

While there are other options available in the proposal, ARB staff believes that most owners and operators of regulated harbor craft will choose to replace their existing engine with a new Tier 2 or Tier 3 engine. However, some operators may choose one of the other compliance options, such as demonstrating that the current engine meets the applicable emission limits. Options are also provided to extend the compliance date, such as implementing an emission control strategy and demonstrating that the engine was previously rebuilt to a cleaner standard. The proposed regulations also include a provision governing the failure of a diesel emission

control strategy employed through an elected compliance option.

Compliance Extensions

The proposed regulations provide for owners and operators to apply to ARB for an extension of the compliance date in certain cases. These circumstances are specified in the proposal and include situations when a vessel is near retirement, there is a change in operation or ownership, there is no suitable replacement engine available, difficulties occur in obtaining or installing a replacement engine, and owners with multiple vessels would need to comply in the same year for all the vessels.

Recordkeeping

Starting on January 1, 2009, owners or operators of commercial harbor craft operating within the Regulated California Waters will be required to maintain specified records for a minimum of three years.

Monitoring, Reporting, and Recordkeeping

The proposed regulations would require that diesel engines on all commercial harbor craft have a properly operating, non-resettable hour meter installed so that hours of operation can be monitored.

The recording and maintenance of specified information would begin on January 1, 2009. All owners or operators of commercial harbor craft would be required to submit an initial report containing specified information, including a plan for compliance with the regulation if applicable, by February 28, 2009. An additional report would be required upon compliance with the required engine emission limits, upon changes in engine or vessel operation, or if there are changes in ownership or use. This required reporting will provide staff with more complete up-to-date information on commercial harbor craft vessels to be used in developing the emission inventory and for the consideration of further regulatory measures. Owners or operators of commercial harbor craft would also need to supply additional information as requested that may be necessary to determine compliance with the proposed regulations. The specified information that owners or operators will be required to record and maintain would have to be supplied to an agent or employee of ARB upon request. Finally, for enforcement purposes, owners or operators would have to provide vessel access to ARB employees or officers or the local air districts.

Alternative Control of Emissions

The proposed regulations contain an alternative control of emissions (ACE) option, which would allow an owner or operator to submit for approval by the Executive Officer an alternative compliance approach. Under the ACE, owners or operators would be required to achieve and demonstrate equivalent or greater emission

reductions than that which would have been achieved with direct compliance with the emission limits. Alternative emission control strategies may include any feasible and enforceable strategy not otherwise required by law, regulation, or statute. The detailed application process is specified and includes substantial public participation.

Fuel Requirement

The proposed regulations would require that commercial harbor craft engines be fueled with diesel fuel meeting ARB's on-road diesel fuel standards (CARB diesel), an alternative diesel fuel, a diesel fuel meeting ARB's Verification Procedure requirements, a CARB diesel used with fuel additives that meets the requirements of the Verification Procedure, or any combination of the above.

Test Methods and Other Incorporated Documents

The proposal would incorporate by reference Parts 2 and 4 of International Standard ISO 8178, as revised in 1996 by the International Organization for Standardization (ISO). This standard includes test methods for reciprocating internal combustion engines. The proposal would also incorporate by reference the U.S. EPA marine engine standards, Tiers 1 and 2, as set forth in 40 Code of Federal Regulation (CFR) Part 94, and the proposed U.S. EPA Marine Engine standards, Tiers 3 and 4, as set forth in 72 Fed. Reg. 15937 et seq. (April 3, 2007).

Violations

The proposal specifies that any violation of the requirements or other provisions would subject the person who committed the violation to the penalties, injunctive relief, and other remedies available under Health and Safety Code section 42400 et seq., other applicable sections of the Health and Safety Code, and other applicable provisions of California law for each violation. The proposal further specifies that each failure to meet a requirement, criteria, or provision of the regulations would constitute a single, separate violation for each hour that a person operates the commercial harbor craft within Regulated California Waters until the provision, criteria, or requirement has been met.

Severability

This proposed regulation states that if any part of the regulation is held to be invalid, the remainder of the regulation shall continue to be effective.

At the hearing, the Board may consider other elements that may provide additional flexibility to affected owners and operators.

COMPARABLE FEDERAL REGULATIONS

As noted above, U.S. EPA has already promulgated Tier 1 and Tier 2 standards for new marine engines. And U.S. EPA has recently proposed Tier 3 and Tier 4 stan-

dards for new marine engines to become effective beginning in 2009 and 2014, respectively. However, no federal standards have been promulgated addressing emission reductions from in-use commercial harbor craft engines. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in-use standards for nonroad engines, including marine engines.⁶

California is the only governmental entity in the United States authorized by the CAA, in the first instance, to adopt emission requirements for in-use off-road engines.⁷ Section 209(e)(1) of the CAA conclusively preempts states, including California, from adopting requirements for new off-road engines less than 175 horsepower that are used in farm or construction equipment. However, the proposed regulations address off-road engines used in marine vessels, rather than those used in farm or construction equipment. Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not conclusively preempted by section 209(e)(1), so long as California applies for and receives authorization from the Administrator of U.S. EPA. To obtain authorization, the Board must make a finding that the California adopted standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards.⁸ The Administrator must grant a request for authorization from California unless he finds that ARB's protectiveness finding is arbitrary and capricious, that California does not need the standards to meet compelling and extraordinary conditions, or that the standards and accompanying enforcement procedures are not consistent with CAA section 209.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

As noted above, the Board staff has prepared two documents for the proposed regulatory action: a Staff Report, which includes a summary of the economic and environmental impacts of the proposal, and a Technical Support Document, which describes the basis of the proposed action in more detail. The Staff Report is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking — Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nauti-

cal Miles of the California Baseline." The Technical Support Document is entitled, "Technical Support Document: Technical Support for the Proposed Rulemaking — Regulations to Reduce Emissions from Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline."

Copies of the Staff Report with the full text of the proposed regulatory language and the Technical Support Document may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on October 25, 2007.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Cherie Rainforth, Manager of the Control Strategies Section, at (916) 327-7213, or by email at crainfor@arb.ca.gov, or Todd Sterling, Air Pollution Specialist, at (916) 445-1034, or by email at tsterlin@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, and Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the Staff Report, Technical Support Document, and all subsequent regulatory documents, including the FSOR, when completed, are also available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/chc07/chc07.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

Costs to Businesses and Private Individuals

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

The total cost of regulation compliance is expected to be about \$140 million in 2006 expenditure—equivalent

⁶ The California term "off-road" and the federal term "nonroad" refer to the same sources and are used interchangeably.

⁷ See *Engine Manufacturers Association v. U.S. EPA* (D.C. Cir. 1996) 88 F.3d 1075, 1089-1091.

⁸ CAA section 209(e)(2)(A). Other states may subsequently opt into the California program, but their regulations must be identical to California's requirements. CAA section 209(e)(2)(B).

dollars (2006 dollars). This represents the total cost of the regulation if all money required to comply with the proposed regulation were spent in 2006. The total regulation cost is based on costs associated with early retirement or replacement of engines, the addition of diesel exhaust control systems (DECS) to new ferry propulsion engines, and reporting and recordkeeping. The costs associated with engine early retirement include the residual value of the replaced engine; any recent major engine maintenance costs, also referred to as engine rebuild; and the time–value–of–money to pay for an early engine repower. The costs associated with the addition of DECS to new ferry propulsion engines include the purchase and installation of the control systems and costs for recurring control technology maintenance. These costs would be spread over the years 2009 to 2022. On an annual basis, the cost would vary between \$2.5 million and \$26 million per year, averaging about \$10 million per year. Approximately 70 percent of the compliance costs will be incurred by the ferry and excursion fleets and 30 percent by the tugboat and tow boat fleets.

No costs were included for additional fuel use for the new ferry vessels with added control technology. This was balanced by the fact that no fuel savings were included for replacing old engines with more efficient new Tier 2 or Tier 3 engines. For vessels that are repowered (i.e., the engines are replaced with a new engine), no costs were included for vessel out–of–service time to install the engine due to the difficulty in assigning a value to this cost (i.e., the down time and installation costs are highly variable and case–dependent).

New equipment and reporting and recordkeeping costs for owners or operators of commercial harbor craft, which would include purchasing and installing new engines in existing vessels, installing DECS in new ferries, and reporting and recordkeeping, are approximately \$460 million. This cost would be spread over the years 2009 to 2022, with an average annual cost of about \$33 million. These costs are the estimated out–of–pocket costs to vessel owners and operators, which include costs that are normal and customary costs of doing business with or without the proposed regulations in place. Specifically, a portion of these costs — the new equipment costs for purchasing and installing a new engine — are costs that the vessel owner would eventually pay, but the proposed regulation requires this service to be performed earlier than normal. In contrast, the total regulation cost of \$140 million (2006 dollars) includes those costs related to performing this service early, but not the normal and customary costs of doing business.

Staff estimates the cost–effectiveness of the proposed regulation in terms of dollars per pound of PM emission reduction to be \$29 per pound if all the total annualized

cost is attributed solely to the PM reduction. Since the proposal would also result in NOx emission reductions, staff also evaluated cost–effectiveness by attributing half the total annualized cost to the PM emission reductions and half to the NOx emission reductions. The resulting cost–effectiveness values using the latter method are \$14 per pound of PM and \$1,800 per ton of NOx. These values are based on the cost of regulatory compliance.

California businesses are affected by the proposed annual cost of the regulation to the extent that the implementation of the proposed regulation reduces their profitability. Overall, most affected businesses will be able to absorb the costs of the proposed regulation with no significant adverse impacts on their profitability. This finding is based on the staff’s analysis of the estimated change in “return on owner’s equity” (ROE). Dun and Bradstreet financial data were used for the analysis, when available, to determine the change in ROE for typical businesses from each industry category. The staff found that the overall change in ROE ranges average from negligible to a four percent decline. The decline in ROE was highest for ferries and excursion fleets and lowest for tugboat fleets. This range in ROE reduction is not considered to represent a significant impact on profitability. Because the proposed regulation would not alter significantly the profitability of most businesses, we do not expect a noticeable change in employment, business creation, elimination, or expansion, and business competitiveness in California for these industries. The change in ROE is expected to be larger for a small business.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons based on the estimated change in ROE. A number of businesses are integrally linked to California ports. However, we do not believe that the added costs of the proposed regulations are high enough for harbor craft operators to consider alternate ports outside of California. The ARB staff has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following approaches for consideration:

- (i) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.

- (iii) Use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

Alternatives that staff considered are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Some businesses that provide vessel repower services could expand due to the volume of business created by the regulatory requirements.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulations which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with Health and Safety Code sections 43013(a) and (b), the Executive Officer has determined that the standards and other requirements in the proposed regulations are necessary, cost-effective, and technologically feasible for diesel engines on commercial harbor craft operated within Regulated California Waters.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Costs to Local and State Government Agencies

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create costs to some State and local agencies. Most State and local agencies will incur only reporting costs. Staff has estimated these one-time reporting costs to range from about \$100 to \$3,000 depending on the number of vessels operated by the agency. Agencies operating ferries, excursion vessels, tugboats, or towboats with diesel engines would also incur engine replacement costs ranging from a total compliance cost of \$100,000 to \$10 million. These agencies include the

City of Vallejo, which operates the Baylink Ferry; the Golden Gate Bridge and Highway Transportation District; the Port of Los Angeles; and the California Department of Transportation.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, Pacific Standard Time, October 24, 2007,** and addressed to the following:

Postal mail: Clerk of the Board,
Air Resources Board
1001 I Street,
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 41511, 43013, and 43018. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39000, 39001, 39515, 39516, 39650, 39658, 39659, 39666, 41510, 41511, 43013, 43016, and 43018; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 14. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

NOTICE OF PROPOSED RULEMAKING

Title 14:	Natural Resources
Division 7:	California Integrated Waste Management Board
Chapter 3:	Minimum Standards for Solid Waste Handling and Disposal
Article 3:	Emergency Waiver of Standards
Sections:	17210.2 and 17210.4
Chapter 3.1:	Compostable Materials Handling Operations and Facilities Regulatory Requirements
Article 2:	Regulatory Tiers for Composting Operations and Facilities
Sections:	17855.2 and 17862
Article 6:	Composting Operating Standards
Section:	17867

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 14, California Code

of Regulations (14 CCR), §§17210.2, 17210.4, 17855.2, 17862, and 17867. The proposed changes modify the regulations governing: (1) emergency waiver of standards and (2) compostable material handling regulatory requirements.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. **The written comment period for this rulemaking ends at 5:00 p.m. on October 22, 2007.** The CIWMB will also accept oral and written comments during the public hearing described below. Please submit your written comments to:

Robert Holmes
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
P.O. Box 4025, M.S.
Sacramento, CA 95812-4025
e-mail: <mailto:rholes@ciwmb.ca.gov>
Fax: (916) 319-7403
Phone: (916) 341-6376

PUBLIC HEARING

A public hearing to receive comments on the proposed rulemaking will be scheduled for November 1, 2007. The hearing will be held in Training Room 1 West/East (First Floor) at the Joe Serna, Jr. Cal/EPA Building, 1001 I Street, Sacramento, California. The hearing will begin at 11:00 a.m. and conclude after the public gives all testimony. The CIWMB requests that persons who make oral comments at the hearing submit written copies of their testimony at the hearing. Training Room 1 West/East is wheelchair accessible.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law and Regulation: Public Resources Code section 43020 requires the CIWMB to adopt and revise regulations, which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal. Existing regulations (14 CCR section 17855.2 and 17867) currently prohibits the composting of unprocessed mammalian tissue.

The proposed regulations would allow research projects to compost unprocessed mammalian tissue for the purposes of obtaining data on pathogen reduction. Additionally, the proposed regulations would allow regulated composting as an emergency measure to handle unprocessed mammalian tissue as an alternative to disposal.

PLAIN ENGLISH REQUIREMENTS

CIWMB staff prepared the proposed regulatory changes pursuant to the standard of clarity provided in Government Code §11349 and the plain English requirements of Government Code §§11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and can be easily understood by those who will use them.

AUTHORITY AND REFERENCES

PRC §§40502, 43020, 43021, and 43035 provide authority for this proposed regulation change. The purpose of the proposed regulation is to implement, interpret and make specific PRC §§43020, 43021, and 43035.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable standards.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

CIWMB staff has determined that adoption of the proposed regulations will place a mandate on local agencies choosing to undertake a research composting operation. CIWMB staff estimates the costs to comply with these regulations to be no more than \$2,500 per year per research operation undertaken. Local governmental agencies are authorized by Public Resources Code, sections 40057 and 40059 to charge a fee for providing these services.

CIWMB staff has further determined that the proposed regulation changes will result in no costs or savings to state agencies, no costs to any school districts that are required to be reimbursed under Part 7 (commencing with §17500) of Division 4 of the Government Code, no other non-discretionary costs or savings on local agencies or school districts, and no costs or savings in federal funding to the state.

FINDING ON NECESSITY OF REPORTS

CIWMB staff have found that the requirement for specific reports are necessary for the health, safety and welfare of the people of the state because it will help to ensure that the standards in the revised regulations are met by operators and are adequately monitored by enforcement agencies.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant effect on housing costs.

EFFECT ON BUSINESSES

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

CIWMB staff made an initial determination that the proposed regulation changes would not have a statewide adverse economic impact on small businesses including the ability of California businesses to compete with businesses in other states. Due to the capital investment required, few small businesses own/operate composting operations. Research composting operations are more likely to be run by local government agencies or large businesses with oversight from academic institutions and state agencies. Financial assistance from federal agencies, state agencies, or industry organizations may be available.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

CIWMB staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the State of California; 2) the creation of new or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

CIWMB staff estimates the costs to private persons or business to comply with the proposed regulations to be no more than \$2,500 per year per research operation undertaken.

CONSIDERATION OF ALTERNATIVES

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB would be more effective in carrying out the

purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Robert Holmes
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
P.O. Box 4025, M.S.
Sacramento, CA 95812-4025
e-mail: <mailto:rholmes@ciwmb.ca.gov>
Fax: (916) 319-7403
Phone: (916) 341-6376

Back-up contact person to whom inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed:

Cara Rothenbaum
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
P.O. Box 4025, M. S.
Sacramento, CA 95812-4025
e-mail: <mailto:crothenbaum@ciwmb.ca.gov>
Fax: (916) 319-7162
Phone: (916) 341-6666

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The CIWMB will have the entire rulemaking file and all information upon which the proposed regulations are based available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Robert Holmes at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at <http://www.ciwmb.ca.gov/Rule-making/Mammalian/> Additionally, the final statement of reasons will be available at the above listed Internet

address or you may call the contact persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The CIWMB may adopt the proposed regulation changes as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the contact person. The CIWMB will transmit any modified text to all persons who testify at a public hearing if one is held; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1580, 1581, 1583 and 1907 of the Fish and Game Code and to implement, interpret or make specific sections 1526, 1528, 1530 and 1580-1585 of said Code, proposes to amend Section 630, Title 14, California Code of Regulations, relating to Ecological Reserves.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, there are 125 ecological reserves designated in Section 630, Title 14, CCR, for the purpose of protecting threatened and endangered plants, animals and specialized habitat types. Section 630 provides general regulations for these reserves and special area regulations to protect resource values while permitting compatible public use of these areas.

The Department of Fish and Game (Department) proposes the following changes to general regulations in Section 630, Title 14:

Amend the prohibition of firearms to further prohibit devices capable of shooting a projectile for the protection of species, habitats and public safety.

Amend the prohibition of littering to include a prohibition of dumping for the protection of species, habitats, public health and safety.

Amend the prohibition of grazing on ecological reserves to allow grazing for habitat or vegetation management purposes. For clarity, this proposal includes the removal of all special area regulations allowing grazing for management purposes.

Amend the general regulation which prohibits operation of aircraft within any ecological reserve to clarify the types of aircraft included in the prohibition. An additional amendment would prohibit aircraft from flying over any ecological reserve in any manner that is incompatible with the use or protection of the biological resources of the reserve. Proposed amendments would also delegate authority from the Commission to the Department to permit flying over an ecological reserve for law enforcement or management purposes. Parachuting over any ecological reserve would also be prohibited.

Amend the general regulation which prohibits pets from entering a reserve unless on a leash of less than ten feet, or within a motor vehicle, except as provided for in individual area regulations to clarify that no person shall allow their pets to enter any ecological reserve except as provided in this section. This amendment is proposed to allow more effective enforcement of restrictions on pets.

Provide a new general regulation which gives Department regional managers the authority to manage public uses on ecological reserves where those public uses are not provided for in Section 630 for the protection of species, habitats, public health and public safety.

The Department is requesting that this section be amended to add seven new ecological reserves to this listing to regulate public use and provide the best available protection for the species and habitats the properties were acquired to protect. Since the properties contain sensitive species and important vegetation communities, and may act as linkages for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the Department has a set of general regulations which apply to all ecological reserves. The seven new reserves are:

Big Table Mountain consisting of 1,107 acres in Fresno County for the protection of vernal pools and the numerous sensitive plant species that inhabit the area.

Buena Vista Creek consisting of 134 acres in San Diego County is proposed for designation as an

ecological reserve for the conservation and enhancement of riparian habitat and adjacent uplands for the federally threatened California gnatcatcher, and for the state and federally listed endangered least Bell's vireo.

Palo Verde consisting of 1,352 acres in Riverside County is proposed for designation as an ecological reserve for the conservation of important riparian and wetland habitats in the lower Colorado River Basin.

Peninsular Ranges consisting of 2,385 acres in Riverside County is proposed for designation as an ecological reserve for the protection of the peninsular bighorn sheep, desert tortoise, least Bell's vireo and southwestern willow flycatcher.

Semitropic, consisting of 6,770 acres in Kern County is proposed for designation as an ecological reserve for the protection of shadscale scrub, alkali sink scrub and associated upland habitats for the San Joaquin kit fox, Tipton's kangaroo rat, San Joaquin antelope squirrel, burrowing owl, San Joaquin whipsnake, blunt-nosed leopard lizard, and Coast horned lizards.

Sky Valley, consisting of 1,739 acres in Riverside County, is proposed for designation as an ecological reserve for the protection of an important wildlife corridor connecting Joshua Tree National Park and the Coachella Valley Ecological Reserve, and habitat for the state and federally threatened desert tortoise. One special regulation is proposed for this reserve to allow upland game hunting.

Stone Ridge, consisting of 754 acres in Butte County, is proposed for designation as an ecological reserve for the protection of blue oak woodland, vernal pools and swales, clay flats, ephemeral and intermittent creeks, and associated uplands for mountain lion, black bear, western spadefoot, burrowing owl, ferruginous hawk, bald eagle, black-shouldered kite, the rare Adobe lily, the rare Butte County checkerbloom, Ahart's paronychia, and the federally endangered Butte County meadowfoam.

The Department is requesting the following special regulations for individual properties to give an additional level of protection, or to permit specific public uses not governed by the general regulations based on management information gathered which shows these regulations are necessary to protect the habitat or species the properties support.

The Department proposes to amend special area regulations for the existing Ballona Wetlands Ecological Reserve to restrict entry to designated

access points and prohibit pets for the protection of species and habitats. The posting of signs, flagging or any markings will also be prohibited to prevent nuisances to the reserve and local community. A special regulation will prohibit the use of model aircraft, rockets, vehicles and devices, including those that are remote controlled, motorized, combustion propelled, or non-motorized to protect species and habitats from disturbance, and to prevent wildfire.

A special regulation for Big Table Mountain Ecological Reserve will allow biological research and monitoring activities that are compatible with the primary purposes of the reserve.

The Department proposes to remove one special area regulation for the existing Burton Mesa Ecological Reserve that allows hunting for upland game, because in the course of developing its management plan for the reserve, the department has determined the reserve is not large enough to support adequate upland game populations or hunting opportunities. A new special regulation will prohibit horses and bicycles on the reserve for the protection of the sensitive Burton Mesa Chaparral and the species it supports.

The Department proposes to amend one special area regulation for the existing Carrizo Canyon Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep.

A proposed amendment for the existing Carrizo Plains Ecological Reserve will split the existing Chimineas Unit into two units, the South Chimineas Unit and the North Chimineas Unit. This will allow for more effective regulation of public use on these areas. A special regulation is also proposed to prohibit hunting of coyote and ground squirrel on the South Chimineas and North Chimineas Units to protect against incidental take of San Joaquin kit fox and burrowing owl on these areas. In addition, a special regulation will require a permit for access to the South Chimineas Unit, and the return of any issued permits to the Department upon departure from the area. This regulation will allow the Department to effectively regulate public use and sustain high quality hunting opportunities.

The Department proposes to amend special area regulations for the existing Coal Canyon Ecological Reserve to allow horses and bicycles only on designated trails. Access will not be

allowed on the designated trails within 72 hours of any weather event that produces 1/4 inch of precipitation in any 24 hour time period, or any such event that produces 1/2 inch of precipitation within any 72 hour time period. This restriction will protect habitats and the species, and prevent damage to the trail. This special regulation is consistent with regulations for neighboring properties of the Cleveland National Forest and Chino Hills State Park. Consistency in these regulations will allow the Department to benefit from the enforcement actions of U.S. Forest Service and Chino Hills State Park enforcement staff.

The Department proposes to amend an existing special area regulation for the existing Cosumnes River Ecological Reserve to clarify that in allowing farming under permit from the Department consistent with the primary purpose of the reserve, the farming shall be for management purposes. The amendments further clarify that in allowing such farming, the Department may exercise exceptions to subsections (a)(4) prohibiting motor vehicles except on designated roads and parking areas and (a)(11) prohibiting the introduction of species.

The Department proposes to amend an existing special area regulation for the existing Magnesias Spring Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep. In addition, the Department proposes to amend a special regulation to allow employees of the City of Palm Desert to enter the reserve in the performance of official duties. A new special regulation for the reserve will define a year-round trail route open to pedestrians and bicycles for the protection of bighorn sheep.

Special regulations for Palo Verde Ecological Reserve will allow farming for management purposes consistent with the primary purpose of the reserve, and restrict access to restoration areas and the lower floodplain for the protection of these important areas. Additional special regulations will allow management activities such as burning, use of pesticides and the use of related equipment by cooperating agencies. Biological and archaeological research as well as the collection of plants and animals for educational purposes will also be allowed. A special regulation will prohibit horseback riding for the protection of important

habitats. In addition, hunting of rabbit, dove, quail and waterfowl will also be allowed on the reserve.

A special regulation for Peninsular Ranges Ecological reserve will allow upland game hunting.

The Department proposes to add one special area regulation for the existing Santa Rosa Plateau Ecological Reserve to prohibit smoking on the reserve, except when inside a vehicle. This special regulation will protect species, habitats and neighboring communities from the threat of catastrophic wildfire and reduce the incidence of littering on the reserve.

A special regulation for Semitropic Ecological Reserve is proposed to allow the Department to issue permits for research or monitoring activities that are compatible with the purposes of the reserve.

A special regulation for Sky Valley will allow upland game hunting.

A special regulation for Stone Ridge Ecological Reserve will prohibit entry to the reserve for the protection of sensitive species and habitats. The Department may grant access to the reserve with written permission for purposes of environmental education and biological research.

The Department proposes removing Dairy Mart Ponds and Pismo Lake ecological reserves from the existing list of ecological reserves because they are no longer owned or managed by the Department.

Two administrative amendments are proposed. The listing for Phoenix Field Ecological Reserve is stricken and replaced elsewhere in the list to correct an alphabetizing error. The list of ecological reserves is also re-numbered, and the subsections for several areas are re-lettered to account for the addition and deletion of reserves and amendments to special area regulations. In addition, editorial changes are proposed to improve the clarity and consistency of the regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, 1st Floor, Sacramento, California, on Friday, November 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 26, 2007 at the address given below, or by fax at (916)

653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 30, 2007. All comments must be received no later than November 2, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of

California businesses to compete with businesses in other states.

The proposed regulatory action adds seven ecological reserves to Title 14 with special regulations for six of them, removes two ecological reserves from the list of reserves, amends special regulations for seven reserves, corrects alphabetizing errors, and re-numbers the reserve listing. The regulatory action is proposed to provide maximum protection of wildlife and habitat and to manage appropriate public uses. It is not expected to negatively affect businesses, because the regulations are enforced only on the specific properties named.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202 and 203 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 215 and 220 of said Code, proposes to amend Section 251.3, Title 14, California Code of Regulations, relating to Prohibition Against Feeding Big Game Mammals.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 251.3 was originally adopted in 1996 because existing regulations did not specifically prohibit the feeding of big game mammals. The change was intended to reduce unnatural concentrations of mammals (thereby reducing the potential for disease), damage to private property, and public safety problems. The addition of language requiring certified mail and a seven day waiting period was proposed by the department and adopted by the commission and is inconsistent with all other requirements of public compliance with resource laws.

Currently Section 251.3 of Title 14, CCR, requires that prior to a Department enforcement officer taking criminal action against a person for unlawfully feeding big game mammals, the regional manager of the area must first give official notice through certified mail to the person that they are in violation of the regulation. If the person does not stop feeding the big game mammal within seven days after he/she receives the certified mail notice, the enforcement officer can then take criminal action on the person for the violation. Prior to taking enforcement action, an officer must be able to document that the person has knowingly fed the big game mammal and the person has received the certified letter from the regional manager. If the person unlawfully feeding the big game mammal does not accept the certified written notice from the mail carrier or post office, the violation can conceivably continue without the enforcement officer being able to take any criminal action. This process is cumbersome and inefficient for the field enforcement officer and could delay action to protect the safety of the public.

The proposed wording for this section would make it illegal to feed big game. There would be no requirement

for either sworn or non sworn department personnel to give a written warning informing a person they are in violation of the section. The enforcement officer will have the ability to use the discretion necessary to stop the illegal feeding of the big game species.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, 1st Floor, Sacramento, California, on Friday, November 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 26, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 30, 2007. All comments must be received no later than November 2, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in **strikeout-underline** format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Assistant Chief Rob Allen, Enforcement Branch, Department of Fish and Game, phone (916) 653-4094, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the

control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation change is sufficiently minor that there would be no significant impact to businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 220 and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206 and 220 of said Code, proposes to amend sections 2.25, 2.30, 5.75, 5.86, 5.93, 5.95, 6.37, 7.50, 8.00 and, 670.5, Title 14, California Code of Regulations, regarding Sport Fishing Regulations Cleanup.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department has determined that the existing Title 14, California Code of Regulations (CCR), contains typographic errors, errors due to incorrect or missing Title 14 updates, incorrect cross-section references, and other problems that can increase to public confusion of the regulation's intent and regulation complexity. While these problems are minor when viewed individually, they must be corrected before further Department efforts can be undertaken to reduce the complexity and increase the public understanding and enforceability of Title 14, CCR, regulations.

The Department is proposing the following clean-up revisions to the sport fishing general and district regulations, Title 14, CCR:

1. Section 2.25 — remove subsection (d) that refers to Section 2.04 which was repealed in 2002 and revision of the FGC references.

2. Sections 2.25 and 2.30 — change common name of *Ptychocheilus grandis* to reflect American Fisheries Society's change from Sacramento squawfish to Sacramento pikeminnow.
3. Section 5.75 — move limit before minimum size for standardization, move the Lake Elsinore bag limit and minimum size into its own subsection, and clarify the definition for striped bass hybrids.
4. Section 5.86 — correct typographic error of the Yurok Tribe's name in the title.
5. Sections 5.93 and 670.5 — change common name of *Ptychocheilus lucius* to reflect American Fisheries Society's change from Colorado squawfish to Colorado pikeminnow.
6. Section 5.95 — remove first sentence: "See Chapter 5 for reptiles and amphibians" as the regulations for reptiles and amphibians now are in sections 5.05 and 5.60, respectively, and revision of the FGC references.
7. Section 6.37 — correct typographic error of Lake Cahuilla's name in the last sentence.
8. Section 8.00 — remove subsection (c) which was repealed and moved to subsection (d) with different criteria by the Commission in 2003, but not updated in Title 14, CCR.

The Department is proposing the following clean-up revisions to the sport fishing subsection 7.50(b) special regulations, Title 14, CCR:

1. Amend (3) (*Alder Creek*) — update reference to 8.00(b) to correct previous error.
2. Amend (8) (*Aptos Creek*) — add 8.00(c) reference to correct previous error.
3. Amend (10) (*Arroyo Grande Creek*) — move "5, but only 2 salmon" from title line to bag limit to replace "5". The change was adopted in 1995 and misaligned during 2002 update of Title 14, CCR.
4. Amend (12) (*Arroyo Seco River*) — add 8.00(c) reference to correct previous error and minor clarity changes to subsections (A) and (B).
5. Amend (13) (*Balm of Gilead Creek*) — standardize reference to read "See Eel River 7.50(b)(63)".
6. Amend (14) (*Battle Creek*) — remove obsolete Section 8.00(a) reference in subsection (A).
7. Amend (15) (*Bear Creek*) — revise Ponderosa Way to read Pondosa Way. Typographic error to Title 14, CCR, from initial adoption in 1989.
8. Amend (22) (*Big River*) — update reference to 8.00(b) to correct previous error and realign closing date.

9. Amend (23) (*Big Sur*) — add 8.00(c) reference to correct previous error, update river name for standardization, and realign closing date.
10. Amend (26) (*Bogus Creek*) — standardize reference to read “See Klamath River 7.50(b)(91.1)”.
11. Amend (35) (*Calveras River . . .*) — add San Joaquin County to description for enforcement clarity.
12. Amend (37) (*Carmel River . . .*) — update 8.00(c) reference to correct previous error and add “Monterey Co.” to title for standardization.
13. Amend (39) (*Cassel Forebay*) — replace season and bag limit with reference “See Hat Creek #1 7.50(b)(75)” to eliminate duplication and reduce future updating issues.
14. Amend (45) (*Corralitos Creek*) — add 8.00(c) reference to correct previous error.
15. Amend (47) (*Cottoneva Creek*) — update reference to 8.00(b) to correct previous error.
16. Amend (48) (*Cottonwood Creek* — missing subsection (1) after “Cottonwood Creek and (1) tributaries . . . , and correct typographic errors. Title 14, CCR, printing error.
17. Amend (50.8) (*Coyote Creek*) — add 8.00(c) reference to correct previous error and remove redundant bag limits.
18. Amend (54.5) (*Deadman Creek*) — add winter season from subsection 7.50(b)(134)(A). Error from 2006 triennial sport fishing process.
19. Amend (62) (*Eastman Lake*) — shorten and move Section 5.00 reference into season column.
20. Amend (63) (*Eel River*) — update reference to 8.00(a) to correct previous error and remove “Regulations” from title for standardization.
21. Amend (64) (*El Estero Lake*) — regulations should read “. . . portions of the lake south of the Pearl Street bridge. . .” for both arms since lake runs north and south and Pearl Street bridge extends across entire lake.
22. Repeal (68.5) (*Frenchman Lake*) — repealed in 1996, but reappeared during 2002 update of Title 14, CCR.
23. Amend (70) (*Garcia River*) — update reference to 8.00(b) to correct previous error.
24. Amend (72) (*Greenwood Creek*) — update reference to 8.00(b) to correct previous error.
25. Amend (73) (*Gualala River*) — update reference to 8.00(b) to correct previous error.
26. Amend (76) (*Heenan Lake . . .*) — remove “Closed to all fishing all year.” in title line. This error appeared during 2002 update of Title 14, CCR.
27. Amend (87) (*Kings River*) — remove duplicate “All year” and “2” in title line. This error appeared during 2002 update of Title 14, CCR.
28. Amend (96) (*Lagunitas Lake*) — size limit was changed to 14 inches maximum in 1992 and subsequently lost from Title 14, CCR.
29. Amend (101) (*Little Cottonwood Creek . . .*) — remove (See No. 48) in title and replace season and bag limit with “See Cottonwood Creek 7.50(b)(48)” to correct season difference, eliminate duplication and reduce future updating issues.
30. Amend (104) (*Llagas Creek*) — add 8.00(c) reference to correct previous error.
31. Amend (107) (*Mad River . . .*) — update reference to 8.00(a) to correct previous error and correct minor typographic errors.
32. Add (109) (*Mammoth Pool*) — subsection lost during 2002 update of Title 14, CCR.
33. Amend (113) (*Mattole River*) — update reference to 8.00(a) to correct previous error and move to title line.
34. Amend (118.2) (*Milk Ranch Creek . . .*) — move season information “Closed to all fishing all year” to the Open Season column. The 1994 adopted T14 language was structured wrong.
35. Amend (120) (*Milton Lake . . .*) — Correct minor typographical errors.
36. Amend (125.5) (*Moosehead Creek*) — standardize reference to read “See McCloud River 7.50(b)(115).”.
37. Amend (133) (*Noyo River . . .*) — update reference to 8.00(b) to correct previous error.
38. Amend (134) (*Owens River . . .*) — add reference to subsection (E) in title, revise regulations to show Owens River terminates at Big Springs, and add reference to Deadman Creek upstream to Big Springs.
39. Amend (135) (*Pajaro River*) — add 8.00(c) reference to correct previous error.
40. Amend (135.8) (*Upper Pentinecia Creek*) — add 8.00(c) reference to correct previous error.
41. Amend (136) (*Pescadero Creek*) — add 8.00(c) reference to correct previous error.
42. Amend (138) (*Pillsbury Lake . . .*) — open season should be Last Sat, in April to Nov. 15 with 5 fish bag limit. This is a Title 14, CCR, update error from 1990.
43. Amend (139) (*Pine Creek . . .*) — standardize reference to read “See Eagle Lake 7.50(b)(61).”, and add subsections (A) and (B) to clarify regulations.

44. Amend (141) (*Pit River*) — minimum size in subsection (A) should be 18 inches not 8 inches. This error happened during 2002 update of Title 14, CCR.
45. Amend (150) (*Redwood Creek . . .*) — update reference to 8.00(a) to correct previous error and correct subsection (B) as Prairie Creek is first stream above the mouth.
46. Amend (154) (*Russian Gulch*) — update reference to 8.00(b) to correct previous error.
47. Amend (155) (*Russian River*) — update reference to 8.00(b) to correct previous error and revise subsection (B) reference to read “See Laguna de Santa Rosa 7.50(b)(93) and Santa Rosa Creek 7.50(b)(172) for non-salmonids only.”
48. Amend (156) (*Sacramento River*) — standardize subsection (B) reference to read “See Soda Creek 7.50(b)(180.5).”, standardize subsection (a) to clarify that Castle Creek is exempt from these regulations and revise reference to read “See Castle Creek 7.50(b)(39.3).”
49. Amend (158) (*Salinas River*) — add 8.00(c) reference to correct previous error and revised subsection (B) regulations’ last line to end with “. . . Nacimiento River.) See 7.50(b)(128).”
50. Amend (159) (*Salmon Creek*) — update reference to 8.00(b) to correct previous error.
51. Amend (161) (*Salmon River*) — standardize reference to read “See Klamath River 7.50(b)(91.1).”
52. Repeal (165.5) (*Sand Bar Forebay*) — original reference in subsection 7.50(b)(187)(C) was removed by Commission in 2003 since the forebay does not connect to the Stanislaus River.
53. Amend (169) (*San Lorenzo River*) — add 8.00(c) reference to correct previous error.
54. Amend (172.5) (*Santa Ynez . . .*) — correct typographic error of Gibraltar to read Gibraltar.
55. Amend (174) (*Scott River*) — standardize reference to read “See Klamath River 7.50(b)(91.1).”
56. Amend (176) (*Shasta River*) — standardize reference to read “See Klamath River 7.50(b)(91.1).”
57. Amend (176.5) (*Sheepheaven Creek*) — standardize reference to read “See McCloud River 7.50(b)(115).”
58. Amend (177) (*Shovel Creek*) — standardize reference to read “See Klamath River 7.50(b)(91).”
59. Amend (178) (*Silver King Creek*) — revise title for clarity to read “Silver King Creek and tributaries including lakes (Alpine Co.) above Tamarack Lake Creek (within section 7 T7NR22E)”.
60. Amend (178.5) — title should read Sisquoc River not Sisquoc Creek. Typographic error from 1996 adoption.
61. Amend (182) (*Sonoma Lake . . .*) — missing season and bag limit. Season is “Last Saturday in April through Nov. 15.”, and bag limit is “5”. This is a Title 14, CCR, update error from 1990.
62. Amend (183) (*Soquel Creek*) — add 8.00(c) reference to correct previous error.
63. Amend (184) (*Soulajoule Lake*) — bag limit should be “5”. This is a Title 14 update error from 1990.
64. Amend (185) (*Squaw Valley Creek*) — bag limit should be “2” not “5”. This is a Title 14 update error from 1990.
65. Amend (189) (*Stony Creek*) — remove reference in subsection (A) that refers to subsection (B). This reference is within the same subsection.
66. Amend (193) (*Ten Mile River*) — update reference to 8.00(b) to correct previous error.
67. Amend (194.5) — Correct typographic error as it should read Trabuco not Trabucco.
68. Amend (196) (*Truckee River*) — missing subsection (C) bag limit which should be 2. Title 14 update error from the 2006 triennial sport fishing process.
69. Amend (197) (*Tule River*) — move “All year” and “2” from title to opposite subsection (A). This error appeared during 2002 update of Title 14, CCR.
70. Amend (198) (*Tuolumne River*) — correct name for Hetch Hetchy Reservoir in title, remove redundant subsection (D) bag limits, revised Subsection (E) bag limit should be “1 salmon” as adopted by the Commission in 1999.
71. Amend (200) (*Usal Creek*) — update reference to 8.00(b) to correct previous error.
72. Amend (201) (*Uvas or Carnadero Creek*) — add 8.00(c) reference to correct previous error.
73. Amend (202) (*Van Duzen River*) — standardize reference to read “See Eel River 7.50(b)(63)(B) and Section 8.00(a).”
74. Amend (204) (*Walker Creek (Marin Co.)*) — remove bag limit as area is closed to fishing. This is a Title 14, CCR, update error from 1990.
75. Add (208.5) (*Wolf Creek (Mono Co.)*) — subsection lost during 2002 update of Title 14, CCR.

76. Amend (210) (*Yuba River, Middle Fork*) — standardize reference to read “See Milton Lake 7.50(b)(120).”
77. Amend (212) (*Yuba River . . .*) — remove obsolete dates that references 2002 and text stating in subsequent years in subsection (A).

Additional minor changes were made to the regulations for clarity.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Crown Plaza Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the State Resources Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Tuesday, November 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 24, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on November 1, 2007.** All comments must be received no later than November 2, 2007, at the teleconference hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon Snellstrom at the preceding address or phone number. **Scott Barrow, Department of Fish and Game, phone (916) 445-7600 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed,

they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:
None.
- (c) Cost Impacts on a Representative Private Person or Business:
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies:

- None.
- (f) Programs Mandated on Local Agencies or School Districts:
None.
- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:
None.
- (h) Effect on Housing Costs:
None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Hilton San Diego Mission Valley, 901 Camino del Rio South, San Diego, California, at **9:00 a.m., on November 2, 2007**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. **on October 22, 2007** or must be received by the Board at the hearing. The Division of Medical Quality, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018 and 2336 of the Business and

Professions Code, and to implement, interpret or make specific Sections 2336 of said Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1364.30 in Article 8 of Chapter 2, Division 13; Adopt Section 1364.32 in Article 8, of Chapter 2, Division 13, relating to oral and written arguments.

In 2003, as a result of legislation (SB 1950, Ch. 1085, stats. of 2002), the Medical Board of California was assigned an Enforcement Monitor to review its enforcement operations and processes. Part of that two-year review was to examine the disciplinary process, including the process used by the Division of Medical Quality (DMQ) to hear oral arguments. In summary, in the "Final Report: Medical Board of California Enforcement Monitor," the Monitor was concerned with two elements of the oral argument process:

- 1) The current oral argument process legally prohibits the introduction of evidence beyond the record. In practice, however, the process often allows the introduction of evidence outside of the record.
- 2) Respondents are allowed to address the DMQ panel without being placed under oath.

The proposed regulation addresses the above two concerns raised by the MBC's Enforcement Monitor. The proposal will:

- 1) Allow an administrative law judge or panel member to ask the parties to cite the record (Sec. 1364.30(c)),
- 2) Require written arguments to cite the record, and authority, if applicable, for each point addressed (Sec. 1364.32), and
- 3) Require respondents to be placed under oath, if the respondent elects to address the panel (Section 1364.30(e)).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

- ☒ The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

- ☐ The following studies/relevant data were relied upon in making the above determination:

There are no costs associated with the proposed regulatory action. The proposed only relates to the presentation of oral arguments and written arguments and the swearing-in of respondents in disciplinary matters.

Impact on Jobs/New Businesses:

The Medical Board of California has determined that this regulatory proposal will not have

☐ a significant

☒ any

impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Medical Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations would not affect small businesses.

The proposed regulations only make procedural changes to the oral and written argument process of disciplinary actions. The parties will be asked to cite the record for points made in the written and oral arguments to prevent the introduction of evidence beyond the record. The proposal will require respondent to be placed under oath if the respondent elects to address the panel.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Medical Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Medical Board of California at 1426 Howe Avenue, Suite 92, Sacramento, California 95825.

**AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Janie Cordray
Medical Board of California
Address: 1426 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Kelly Nelson
Medical Board of California
Address: 1426 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: regulations@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at www.mbc.ca.gov.

TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

NOTICE OF PROPOSED REGULATION ADOPTION

California Code of Regulations Title 17. — Public Health Division 4 — California Institute For Regenerative Medicine Chapter 1

Date: September 7, 2007

Deadline for Submission of Written Comment:
November 6, 2007 — 5:00 p.m.

Hearing Date: None scheduled.

Subject Matter of Proposed Regulations: Grant
Administration Policy for Facilities and Equipment
Grants

Sections Affected:

The proposed action adopts a chapter heading (Chapter 1) and amend the attachments incorporated by reference in section 100000 of Title 17 of the California Code of Regulations.

Authority: Article XXXV of the California Constitution and Health and Safety Code section 125290.40, subdivision (j); Government Code section 87306.

Reference: Sections 87300–87302, Government Code; Health and Safety Code section 125290.40.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in early 2005 with the passage of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens’ Oversight Committee (“ICOC”) is the 29–member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non–profit aca-

demical and research institutions, patient advocacy groups and the biotechnology industry.

Health and Safety Code section 125290.30, subdivision (g), enacted as part of Proposition 71, specifies that the Political Reform Act applies to the CIRM and the ICOC with certain modifications. Section 125290.50, subdivision (e)(3), also enacted with the proposition, states that members of the advisory working groups of the ICOC shall be covered by conflict of interest rules based on the standards applicable to scientific review committees of the National Institutes of Health, rather than those of the Political Reform Act. Accordingly, the Institute has promulgated separate regulations governing the working groups for conflicts of interest.

Submittal of Comments:

Any interested party may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on October 30, 2007. Comments regarding this proposed action may also be transmitted via e–mail to coicodcomments@cirm.ca.gov or by facsimile transmission to (415) 396–9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person’s representative requests a public hearing, he or she must do so in writing no later than October 15, 2007.

Effect on Small Business:

CIRM has determined that the proposed regulatory action has no impact on small businesses. The regulation implements conditions on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private non–profit institutions, as well as large for–profit institutions. As such, the regulation is not expected to adversely impact small business as defined in Government Code section 11342.610.

Impact on Local Agencies or School Districts:

CIRM has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. CIRM has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

Costs or Savings to State Agencies:

CIRM has determined that no savings or increased costs to any agency will result from the proposed regulatory action.

Effect on Federal Funding to the State:

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulatory action.

Effect on Housing Costs:

CIRM has made an initial determination that the proposed action will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

CIRM has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses:

CIRM has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on the Creation, Elimination, or Expansion of Jobs:

CIRM has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Consideration of Alternatives:

CIRM must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the regulatory action.

Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named

in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

After the close of the comment period, CIRM may make the regulation permanent if it remains substantially the same as described in the Policy Statement Overview. If CIRM does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

C. Scott Tocher, Interim Counsel
California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396-9136

Or:

Tamar Pachter, General Counsel
California Institute for Regenerative Medicine
(415) 396-9100

The Notice of Proposed Regulatory Adoption, the Initial Statement of Reasons and any attachments, and the proposed text of the regulations are also available on CIRM's website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on CIRM's webpage and accessed at www.cirm.ca.gov.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations

SUBJECT: **Authorization to X-Ray Technicians to Perform Digital Radiography and School Curriculum Requirements, DPH-07-004**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Legislature of the State of California determined that the public health interest requires that the people of this state be protected from excessive and improper exposure to ionizing radiation. In this regard, the Legislature adopted the Radiologic Technology Act (RT Act), Health and Safety Code sections 106965–107111, 114840–114896, to establish standards of education, training, and experience for persons who use X-rays on human beings and to prescribe means for assuring that these standards are met. (Health & Saf. Code, § 114840.)

The RT Act authorizes the Department of Public Health (Department), successor to the Department of Health Services pursuant to Health and Safety Code sections 131050 and 131051, to promulgate radiologic technology regulations for the protection of the health and safety of the public and radiation workers. (Health and Saf. Code, § 131200.) Radiologic technology means the application of X-rays on human beings for diagnostic or therapeutic purposes. (Health & Saf. Code, § 114850, subd. (c).)

Pursuant to the RT Act, the Department:

- Certifies individuals as radiologic technologists in diagnostic, therapeutic, and mammographic X-ray use;
- Permits individuals as limited permit X-ray technicians in specific permit categories;
- Certifies and permits licensed medical, osteopathic, podiatric, and chiropractic doctors for the use of diagnostic or therapeutic X-rays within the scope of their professional license, and
- Approves schools that provide training courses required for obtaining a certificate or permit.

The RT Act also created the Radiologic Technology Certification Committee (RTCC) to assist, advise, and make recommendations for the establishment of rules and regulations necessary to insure the proper administration and enforcement of the RT Act. (Health & Saf. Code, § 114855.)

The RT Act is structured such that individuals can be certified as a radiologic technologist or granted a limited permit.

An individual certified as a radiologic technologist is called a certified radiologic technologist (CRT). Except for mammography and the use of fluoroscopic X-ray equipment, a certificate authorizes the individual to perform X-ray procedures without limitation. To perform mammography or use fluoroscopic X-ray equipment, the CRT must obtain additional education and training and pass an additional examination.

Limited permits are permits authorizing the holder to conduct radiologic technology limited to the performance of certain procedures or the application of X-ray to specific areas of the human body, except for a mammogram. (Health & Saf. Code, § 114850, subd. (e).) An individual granted a limited permit is called a limited permit X-ray technician (XT). Limited permits are issued in the following permit categories and the scope of each permit is indicated as defined in title 17, California Code of Regulations, sections 30442 & 30443 (17 CCR 30442 & 30443)¹:

- Chest radiography permit: radiography of the heart and lungs.
- Dental laboratory radiography permit: radiography of the intra-oral cavity, skull, and hand and wrist, for dental purposes.
- Dermatology X-ray therapy permit: application of X-ray to human beings for the treatment of diseases and tumors of the skin.
- Extremities radiography permit: radiography of the upper extremities, including shoulder girdle, and lower extremities, excluding pelvis.
- Gastrointestinal radiography permit: radiography of the esophagus, stomach, small and large intestine, and biliary tract.
- Genitourinary radiography permit: radiography of the kidneys, ureters, urinary bladder, urethra, and internal and external genitalia.
- Leg-podiatric radiography permit: radiography of the knee, tibia and fibula, and ankle and foot.
- Skull radiography permit: radiography of the bone and soft tissues of the skull and upper neck.
- Torso-skeletal radiography permit: radiography of the shoulder girdle, rib cage and sternum, vertebral column, pelvis and hip joints.
- X-ray bone densitometry permit: radiography of the total skeleton or part thereof, using X-ray bone densitometry.

Under the RT Act, the Department approves schools as:

- Diagnostic Radiologic Technology (RT) Schools (17 CCR 30421);

¹ Citations to the California Code of Regulations will employ the format of [Title #] CCR [Section #]. Thus, 17 CCR 30442 refers to section 30442 of Title 17 of the California Code of Regulations.

- Therapeutic RT Schools (17 CCR 30422);
- Radiologic Technologist Fluoroscopy Permit Schools (17 CCR 30423); and
- Limited Permit XT Schools (17 CCR 30424, 30425, 30427, & 30427.2). Approval is granted for specific limited permit categories indicated above.

The Governor, during the 2005–2006 legislative session, signed into law Senate Bill (SB) 1670, which amended the RT Act. SB 1670 took effect January 1, 2007 and:

- Requires the Department to, upon recommendation of the RTCC, require CRTs and XTs who operate digital radiography equipment to devote a portion of his or her continuing education credit hours to continuing education in digital radiologic technology. (Health & Saf. Code, § 114870, subd. (b)(2) & (c)(3).)
- Requires the Department to provide a mechanism whereby XTs holding specific permit categories, after completion of 20 hours or more of instruction in digital radiologic technology approved by the Department, may perform digital radiography within their respective scopes of practice. (Health & Saf. Code, § 114870, subd. (c)(2).)
- Requires the Department to ensure applicants for specific permit categories have at least 50 hours of education in radiological protection and safety. (Health & Saf. Code, § 114870, subd. (c)(1)(B).)
- Authorizes the Department to exempt, as deemed appropriate, a school from the mandate to include in the school's curriculum 20 hours of approved instruction in digital radiography. (Health & Saf. Code, § 114870, subd. (d).)

The purpose of these proposed regulations is to implement SB 1670 except as it relates to the continuing education (CE) requirement as specified in Health and Safety Code section 114870, subdivisions (b)(2) and (c)(3). The CE requirement will be presented to the RTCC for consideration as indicated in SB 1670.

The authority and reference citations are being amended, resulting in nonsubstantial changes pursuant to 1 CCR 100, to reflect the following:

- The numbering system implemented by the 1995 recodification of the Health and Safety Code.
- The reorganization of the Department of Health Services into the Department of Healthcare Services and the California Department of Public Health, pursuant to SB 162. (Stats. 2006, ch. 241.)

The regulations interpreting, specifying, or implementing the RT Act are in 17 CCR 30400 et seq. The proposed changes are as follows:

Article 8, Authorization to X-ray Technicians to Perform Digital Radiography, is proposed to be added for structural purposes and is nonsubstantial.

Section 30410 is proposed to be adopted to inform the XT community how and what instruction must be completed and from whom received to be eligible for authorization to perform digital radiography.

Section 30410.2 is proposed to be adopted to specify the Department's approved instruction in digital radiography.

Section 30421 is proposed to be amended to require diagnostic radiologic technology schools to include the proposed instruction and hours specified in section 30410.2 in their curriculum.

Section 30424 is proposed to be amended to require limited permit X-ray technician schools to increase the number of hours for education in radiological protection and safety and to include the instruction and hours specified in section 30410.2 in their curriculum.

Section 30445 is proposed to be amended to clarify how initial applicants who have completed the required instruction receive authorization to perform digital radiography and what must be submitted in an application.

Section 30447 is proposed to be amended to ensure existing regulations are consistent with the proposed authorization mechanism specified in section 30410.

AUTHORITY

Sections 114870, 131050, 131051 and 131200, Health and Safety Code.

REFERENCE

Sections 106965, 106975, 106995, 107045, 114840, 114845, 114850, 114870, 114875 and 114880, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings, by 5 p.m., on October 26, 2007, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for acces-

sing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-7714; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DPH-07-004" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Phillip Scott of the Radiologic Health Branch at (916) 440-7978.

All other inquiries concerning the action described in this notice may be directed to Jasmin Delacruz of the Office of Regulations and Hearings at (916) 440-7688, or to the designated backup contact person, Barbara Gallaway, at (916) 440-7689.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, R-07-004.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of

reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None
- B. Fiscal Effect on State Government: None
- C. Fiscal Effect on Federal Funding of State Programs: None
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: There will be a fiscal impact to private persons up to \$500, but the estimated average cost is \$320 per individual for 20 hours of instruction to operate digital radiographic equipment. There may be a fiscal impact to some schools that are not able to fold in the additional hours in their current curriculum. This fiscal impact is unknown at this time.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school

districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California. It is likely jobs will be created to meet the training needs created by this regulation.
2. The creation of new businesses or the elimination of existing businesses within the State of California. It is likely new businesses will be created to meet the training needs created by this regulation.
3. The expansion of businesses currently doing business within the State of California. It is likely existing businesses providing training in the State of California will expand to meet the training needs created by this regulation.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Jasmin Delacruz, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7688 and/or California Relay 711/1-800-

735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that it's Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency
Office of Environmental Health Hazard
Assessment
Notice to Interested Parties
September 7, 2007**

**ANNOUNCEMENT OF
PUBLIC COMMENT PERIOD**

**Draft Technical Support Document
On Proposed Public Health Goal for
Molinate
in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the availability of the draft technical support document for a proposed Public Health Goal (PHG) for the rice herbicide molinate in drinking water. The draft document is posted on the OEHHA Web site (www.oehha.ca.gov). OEHHA is soliciting comments on the draft report during a 45-day comment period. The Office will also hold a public workshop on October 9, 2007, at the Elihu Harris Building, 1515 Clay Street, Oakland, 94612, Room 15, 10 a.m.–12 noon, or until business is concluded. OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for conducting the workshop and receiving public input.

The workshop is provided to encourage a dialogue between OEHHA scientists and the public, to discuss the scientific basis of the proposed PHG, and to receive comments. Following the workshop, OEHHA will evaluate all the comments received, revise the document as appropriate, and make it available for another 30-day comment period. After any subsequent revisions, the final document will be posted on our Web site along with responses to the major comments from the public at the workshop and during the public review and scientific comment periods.

Oral and written comments received at the workshop will be considered during the revision of the draft technical support document. Written comments must be received at the OEHHA address below by 5:00 p.m. on October 23, 2007, to be considered during this revision period for the documents.

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The

FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on August 14, 2007, received a petition from The Bay Institute, Center for Biological Diversity, and Natural Resources Defense Council to take emergency action to list longfin smelt (*Spirinchus thaleichthys*) as an endangered species.

Longfin smelt are a pelagic, estuarine–anadromous species. They tolerate a wide range of salinities and are capable of living in fresh, brackish and marine waters.

Pursuant to Section 2073 of the Fish and Game Code, on August 21, 2007, the Commission transmitted the petition to the Department of Fish and Game for review pursuant to Section 2073.5 of said code. The Commission will consider taking emergency action to list longfin smelt as an endangered species at its October 11, 2007, Commission meeting in Concord. Interested parties may contact Mr. Chuck Armor, Regional Manager, Bay Delta Region, Department of Fish and Game, P.O. Box 47, Yountville, CA 94599, or telephone (707) 944–5517 for information on the petition or to submit information to the Department relating to the petitioned species.

California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365), requires OEHHA to develop PHGs based exclusively on public health considerations.

PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Mr. Thomas Parker (tparker@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Headquarters: 1001 I Street, 12th floor
Sacramento, California 95814
Mailing address: P.O. Box 4010, Sacramento, CA 95812-4010
Attention: PHG Project

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES September 7, 2007

CHEMICALS SUBMITTED TO THE CARCINOGEN IDENTIFICATION COMMITTEE FOR CONSULTATION

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986¹ (Proposition 65). In this notice, OEHHA is announcing the list of chemicals identified through the

"Process for Prioritizing Chemicals for Consideration Under Proposition 65 by the State's Qualified Experts," which was adopted in 2004. These chemicals have been identified for possible preparation of hazard identification materials. OEHHA will consult with the Carcinogen Identification Committee (CIC) at a meeting scheduled for **Monday, November 19, 2007** concerning whether to prepare hazard identification materials for any of the following chemicals:

Chemical	CAS No.
<i>N,N</i> -Dimethylformamide	68-12-2
Marijuana smoke	—
2,4,6-Trinitrotoluene (TNT)	118-96-7

The meeting will be held at the California Environmental Protection Agency Headquarters Building, Sierra Hearing Room, at 1001 I Street, Sacramento, California. The meeting will begin at 10:00 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the meeting.

Based on the CIC's recommendations at the November 19 meeting, OEHHA will select chemicals for preparation of Hazard Identification Materials for the Committee to consider at future meetings in deciding whether to add those chemicals to the Proposition 65 list. **No listing decisions will be made concerning these chemicals at this time.**

This notice marks the start of a 60-day public comment period. Interested parties may provide comment on the extent of the scientific evidence pertaining to the selection of any of the proposed chemicals for preparation of hazard identification materials. OEHHA will forward the comments to the CIC members prior to the November 19 meeting.

Copies of the summaries of available scientific information on the chemicals and related attachments are available on OEHHA's Web site at www.oehha.ca.gov. This information can also be obtained by calling OEHHA's Proposition 65 Implementation Office at (916) 445-6900.

Comments should be submitted in triplicate and directed to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803
Or via e-mail to coshita@oehha.ca.gov

Comments may also be delivered in person or by courier to the above address. In order to be consid-

¹ Health and Safety Code section 25249.5 et seq.

ered, comments must be received at OEHHA by 5:00 p.m. on Tuesday, November 6, 2007.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES
September 7, 2007**

**CHEMICALS SUBMITTED TO THE
DEVELOPMENTAL AND REPRODUCTIVE
TOXICANT IDENTIFICATION COMMITTEE
FOR CONSULTATION**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986¹ (Proposition 65). In this notice, OEHHA is announcing the list of chemicals identified through the "Process for Prioritizing Chemicals for Consideration Under Proposition 65 by the State's Qualified Experts," which was adopted in 2004. These chemicals have been identified for possible preparation of hazard identification materials. OEHHA will consult with the Developmental and Reproductive Toxicant Identification Committee (DARTIC) at a meeting of the DARTIC scheduled for **Monday, December 10, 2007** concerning whether to prepare hazard identification materials for any of the following chemicals:

Chemical	CAS No.
Bisphenol-A	80-05-7
Bromodichloromethane	75-27-4
Caffeine*	58-08-2
Chlorpyrifos	2921-88-2
Chromium (hexavalent)	18540-29-2
DDE	72-55-9
Methylisocyanate	624-83-9
Sulfur dioxide	7446-09-5

The meeting will be held at the California Environmental Protection Agency Headquarters Building, By-

ron Sher Auditorium, at 1001 I Street, Sacramento, California. The meeting will begin at 10:00 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the meeting.

Based on the DARTIC's recommendations at the December 10 meeting, OEHHA will select chemicals for preparation of hazard identification materials for the Committee to consider at future meetings in deciding whether to add those chemicals to the Proposition 65 list. **No listing decisions will be made concerning these identified chemicals at this time.**

This notice marks the start of a 60-day public comment period. Interested parties may provide comment on the extent of the scientific evidence pertaining to the selection of any of the proposed chemicals for preparation of hazard identification materials for consideration at future DARTIC meetings. OEHHA will forward the comments to the DARTIC members prior to the December 10 meeting.

Copies of the summaries of available scientific information on the chemicals and related attachments are available on OEHHA's Web site at www.oehha.ca.gov. This information can also be obtained by calling OEHHA's Proposition 65 Implementation Office at (916) 445-6900.

Comments should be submitted in triplicate and directed to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803
Or via e-mail to coshita@oehha.ca.gov

Comments may also be delivered in person or by courier to the above address. In order to be considered, comments must be received at OEHHA by 5:00 p.m. on Tuesday, November 6, 2007.

**In the event caffeine were selected for the development of hazard identification materials and were eventually listed by the DARTIC, warnings would not be required for exposures from certain foods, such as coffee, tea, or chocolate, where the caffeine in the product occurs naturally. The regulations implementing Proposition 65 contain a provision exempting from the warning requirement exposures to listed chemicals that occur through foods, to the extent that the chemical is a natural constituent of the food and is not added by any known human activity (Title 22, Cal. Code of Regs. section 12501).*

¹ Health and Safety Code section 25249.5 et seq.

**RULEMAKING PETITION
DECISIONS**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

**NOTICE OF DECISION ON PETITION TO
AMEND REGULATIONS**

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions,
Programs and Parole**

PETITIONER

Darryl Wakefield, J-43263.

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner contends that California State Prison, Corcoran (COR) is enforcing a Department Operations Manual (DOM) supplement without complying with the Administrative Procedure Act (APA), which therefore constitutes the enforcement of an underground regulation that violates inmates access to the courts by not allowing them access to legal envelopes or to obtain copies of exhibits for attachment to a Writ of Habeas Corpus.

DEPARTMENT DECISION

The Secretary of the CDCR declines the petition in its entirety.

While not actually rising to the level of a formal and proper petition as per the Government Code, the CDCR has elected to respond as if it were a properly filed petition. The correct mechanism for an inmate to address grievances about privileges would be through the Inmate Appeal system.

The CDCR agrees that generally a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code (PC) section 5058 establishes exemptions expressly for the CDCR:

- (c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:
 - (1) Rules issued by the Director applying solely to a particular prison or other correctional facility...

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution. Petitioner challenges an Operational Procedure issued by COR. By its own terms, it applies only to inmates at COR.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a "local rule" dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under PC section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the Operational Procedure entitled “Legal Matters” issued by COR applies only to inmates at COR. Inmates housed at other institutions are controlled by that institution’s legal matters Operation Procedures. Therefore, the Operational Procedure is a “local rule” and is exempt from compliance with the APA.

Petitioner claims that the Director of CDCR has approved the DOM supplement as part of CDCR’s DOM regulation. That is not correct. The DOM is an accumulation of the Departments policies. Regulations as they pertain to those policies are contained in the California Code of Regulations (CCR), Title 15. When CDCR determines it must amend or adopt a particular policy, that policy is reviewed to evaluate its regulatory impact. If regulations are required, they are reviewed and approved by the Secretary of the CDCR prior to being forwarded to the Office of Administrative Law to comply with the APA. Once the public comment period is complete and the regulations have been filed with the Secretary of State, the field is notified that the regulations are in effect and the corresponding DOM policy is distributed for implementation. Each institution, due to their location, mission, and physical plant, is allowed to provide further detail about that policy by developing a supplemental Operational Procedure pursuant to PC 5058(c)(1), provided the intent of the policy is not altered. A local Operational Procedure is approved at the level of the Warden of the institution it pertains to, not by the CDCR Secretary. Generally each institution will update their local Operating Procedures at the beginning of each year.

Currently the CCR, Title 15 section 3122, and sections 3160 through 3165, contain regulations that pertain to such subjects as Inmate Law Library, Inmate Access to Courts, and Mailing Legal Documents. Most institutions have developed a local supplemental procedure to explain in greater detail how those regulations are to be applied to their particular mission and physical plant. For example, section 3122 contains language that stipulates that each facility shall provide legal materials through its law library; legal size envelopes would be one such item.

Inmates who have an established court deadline, as noted in petitioner’s attached exhibit, will be given a preferred legal status for use of the law library, regardless if they are housed in the general population or in segregated housing. Inmates who are housed in segregated housing and are not on preferred legal status still have access to the law library, although on a less frequent basis than general population inmates due to the more restrictive security conditions associated with segregated housing. Due to the large number of inmates involved in litigation at some institutions, their preferred legal status may cause delay for other inmates to have access to the law library who do not have active lit-

igation pending. Large legal size envelopes, which typically have metal clasps attached to them, must be maintained in the law library for security reasons, and are accessible when an inmate is able to access the law library, as are photo copying services. It is noted that petitioner did have access to a letter size envelope, as evidenced by his petition mailed to the Office of Administrative Law and the CDCR, as well as state provided postage.

Government Code 11342.6 provides a mechanism by which an individual can petition to amend, adopt, or repeal a regulation that has the force of law. The petition should be specific as to the regulation to be changed, and if being amended or adopted, the specific suggested language should be provided. The petition submitted in this case is primarily a complaint about the inability to obtain legal supplies when desired by the Petitioner. Additionally, the exact nature of what regulation change petitioner is requesting is unclear, as he is merely expressing an opinion that he feels a certain “local rule” has not been properly vetted through the APA.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Division 3, Adult Institutions, Programs and Parole

PETITIONER

Rodney Koch, T-35419.

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treat-

ment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDCR shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner contends that California State Prison, Corcoran (COR) is enforcing a Department Operations Manual (DOM) supplement without complying with the Administrative Procedure Act (APA), which therefore constitutes the enforcement of an underground regulation that violates inmate's access to the courts by not allowing them access to legal envelopes unless the inmate is at the law library.

DEPARTMENT DECISION

The Secretary of the CDCR declines the petition in its entirety.

While not actually rising to the level of a formal and proper petition as per the Government Code, the CDCR has elected to respond as if it were a properly filed petition. The correct mechanism for an inmate to address grievances about privileges would be through the Inmate Appeal system.

The CDCR agrees that generally a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code (PC) section 5058 establishes exemptions expressly for the CDCR:

- (c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

- (1) Rules issued by the Director applying solely to a particular prison or other correctional facility...

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution. Petitioner challenges an Operational Procedure issued by COR. By its own terms, it applies only to inmates at COR.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a "local rule" dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under PC section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the Operational Procedure entitled "Legal Matters" issued by COR applies only to inmates at COR. Inmates housed at other institutions are controlled by that institution's legal matters Operational Procedure. Therefore, the Operational Procedure is a "local rule" and is exempt from compliance with the APA.

The DOM is an accumulation of the Departments policies. Regulations as they pertain to those policies are contained in the California Code of Regulations (CCR), Title 15. When CDCR determines it must amend or adopt a particular policy, that policy is reviewed to evaluate its regulatory impact. If regulations are required, they are reviewed and approved by the Secretary of the CDCR prior to being forwarded to the Office of Administrative Law to comply with the APA. Once the public comment period is complete and the regulations have been filed with the Secretary of State, the field is notified that the regulations are in effect and the corresponding DOM policy is distributed for implementation. Each institution, due to their location, mission, and physical plant, is allowed to provide further detail about that policy by developing a supplemental Operational Procedure pursuant to PC 5058(c)(1), provided the intent of the policy is not altered. A local Operational Procedure is approved at the level of the Warden of the institution it pertains to, not by the CDCR Secretary. Generally each institution will update their local Operating Procedures at the beginning of each year.

Currently the CCR, Title 15 section 3122, and sections 3160 through 3165, contain regulations that pertain to such subjects as Inmate Law Library, Inmate Access to Courts, and Mailing Legal Documents. Most institutions have developed a local supplemental proce-

ture to explain in greater detail how those regulations are to be applied to their particular mission and physical plant. For example, section 3122 contains language that stipulates that each facility shall provide legal materials through its law library; legal size envelopes would be one such item.

Inmates who have an established court deadline, as noted in petitioner's attached exhibit, will be given a preferred legal status for use of the law library, regardless if they are housed in the general population or in segregated housing. Inmates who are housed in segregated housing and are not on preferred legal status still have access to the law library, although on a less frequent basis than general population inmates due to the more restrictive security conditions associated with segregated housing. Due to the large number of inmates involved in litigation at some institutions, their preferred legal status may cause delay for other inmates who do not have pending litigation to have access to the law library. Large legal size envelopes, which typically have metal clasps attached to them, must be maintained in the law library for security reasons, and are accessible when an inmate is able to access the law library. It is noted that petitioner did have access to a letter size envelope, as evidenced by his petition mailed to the Office of Administrative Law and the CDCR, as well as state provided postage.

Government Code 11342.6 provides a mechanism by which an individual can petition to amend, adopt, or repeal a regulation that has the force of law. The petition should be specific as to the regulation to be changed, and if being amended or adopted, the specific suggested language should be provided. The petition submitted in this case is primarily a complaint about the inability to obtain legal supplies when desired by the Petitioner. Additionally, the exact nature of what regulation change petitioner is requesting is unclear, as he is merely expressing an opinion that he feels a certain Operational Procedure has not been properly vetted through the APA.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sac-

ramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

BOARD OF PAROLE HEARINGS

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

AGENCY: BOARD OF PAROLE HEARINGS

ACTION: Amend SECTION 2253 of Title 15 of the California Code of Regulations

DECISION OF DISAPPROVAL OF EMERGENCY REGULATORY ACTION

(Gov. Code, sec. 11349.6)

OAL File No. 07-0810-03 E

SUMMARY OF RULEMAKING ACTION

This proposed emergency rulemaking action seeks to amend Title 15 of the California Code of Regulations, section 2253 to specify the circumstances and conditions under which life parole consideration hearings will be rescheduled for voluntary waivers, stipulations of unsuitability, postponements and continuances. It was submitted by the Board of Parole Hearings as an emergency at the direction of the Marin County Superior Court (*In re Inez Lugo* (formerly *In re Rutherford*), 2007, No. SC135399A).

Date: August 27, 2007

GEORGE C. SHAW
Staff Counsel

for: SUSAN LAPSLEY
Director

Original: John Monday, Executive Officer,
Board of Parole Hearings

Cc: James Tilton, Secretary, CDCR

Cc: Devaney Sullivan

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by

contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Air Toxics Hot Spots

The Air Toxic Hot Spots program collects emission data on air toxics emitted in California, to identify those facilities with unacceptable localized health risks, and to ensure nearby residents were notified of significant risks. This regulatory action updates the regulations to align them with regulations already in place and incorporates by reference the OEHHA Health Risk Assessment Guidelines. This regulatory action adds a new chapter on diesel engine reporting.

Title 17

California Code of Regulations

AMEND: 93300.5

Filed 08/27/07

Effective 09/26/07

Agency Contact: Amy Whiting (916) 322-6533

BOARD OF EDUCATION

Textbook Weight Standards

AB 2532 (Pacheco), Chapter 1096 of the Statutes of 2002, requires the State Board of Education to adopt maximum weight standards for textbooks for elementary students. The Board is required to take into consideration the health risks to children. This regulatory adoption provides for those weight limits and for alternatives and exceptions.

Title 5

California Code of Regulations

ADOPT: 9517.2

Filed 08/27/07

Effective 09/26/07

Agency Contact: Debra Strain (916) 319-0642

CALIFORNIA ENERGY COMMISSION

Adoption of Amendments of Appliance Regulations

This action changes the Commission's appliance efficiency regulations to conform with the provisions of a District Court order and to applicable federal standards.

Title 20

California Code of Regulations

AMEND: 1602, 1604, 1606, 1607

Filed 08/22/07

Effective 09/17/07

Agency Contact: Bill Staack (916) 654-3873

CALIFORNIA HIGHWAY PATROL

Cargo Securement Standards

This emergency regulatory action readopts the federal requirements for cargo securement standards in compliance with section 34500.3 of the Vehicle Code. (Previous OAL file ## 07-0423-01EE and 06-1220-01E)

Title 13

California Code of Regulations

ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405

REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421, 1422, 1423, 1424, 1425

Filed 08/22/07

Effective 08/30/07

Agency Contact: Jason Golenor (916) 445-1865

CALIFORNIA STATE UNIVERSITY

Definitions

The Board of Trustees, California State University is amending the captioned sections pursuant to Education Code section 89030.1.

Title 5

California Code of Regulations

AMEND: 42000, 42002, 42003, 42005, 42006, 42007, 42008, 42009, 42010, 42011, 42012, 42013, 42018, 42019

Filed 08/23/07

Effective 08/23/07

Agency Contact:

Deanna L. Thompson (562) 951-4495

DEPARTMENT OF MENTAL HEALTH

Mental Health Services Act (2)

California voters approved Proposition 63 during the November 2004 General Election. Proposition 63, now known as the Mental Health Services Act (the Act), became effective on January 1, 2005. The Act is intended to expand mental health services to children/youth, adults and older adults who have severe mental illnesses/severe mental disorders and whose service needs are not being met through other funding sources. The Act seeks to establish prevention and early intervention programs as well as to develop innovative programs. Through imposition of a 1% tax on personal income in excess of \$1 million, the Act provides the opportunity for the Department of Mental Health (DMH)

to provide increased funding, personnel and other resources to support county mental health programs and monitor progress toward statewide goals for children/youth, adults, older adults and families.

On December 30, 2005, the Department of Mental Health (DMH) submitted to the Office of Administrative Law (OAL), and the same day OAL filed with the Secretary of State (SOS), an emergency regulatory action which implemented Proposition 63, the Mental Health Services Act. Section 5898 of the Welfare and Institutions Code provides that such regulations, if adopted in 2005, are deemed an emergency, exempt from the review of OAL, and shall remain in effect as emergency regulations for no more than one year. On January 13, 2006, DMH submitted an amendment to these emergency regulations, by way of a new subsection (b) to section 3400, which was approved by OAL and filed with the SOS on January 23, 2006 and subsequently readopted twice. The public hearing on these regulations was conducted on June 5, 2006. On December 29, 2006, DMH replaced those emergency regulations expiring on December 30, 2006 with more extensive emergency regulations that were developed during the rulemaking proceeding. The changes were so extensive that DMH went back out to another 45 day notice and the subsequent public hearing was held on April 16, 2007. These emergency regulations were readopted on May 1, 2007. This emergency regulatory action would readopt those emergency regulations which expire on August 30, 2007.

Title 9

California Code of Regulations

ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650, REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415

Filed 08/23/07

Effective 08/30/07

Agency Contact: Steven Appel (916) 654-2319

DEPARTMENT OF PUBLIC HEALTH

Reporting HIV Infection by Name

This is the second re-adoption of an emergency action that updates the Department's regulations that specify the HIV test information that must be reported by a health care provider to the local health officer, the reporting forms, and the manner of transmitting a report to conform to the new requirement to include reporting of the patient's name in accordance with Health and Safety Code section 121022.

Title 17

California Code of Regulations

ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77

Filed 08/28/07

Effective 09/07/07

Agency Contact:

Barbara Gallaway (916) 440-7689

DEPARTMENT OF REAL ESTATE

Nontraditional Mortgage Loan Regs

This action defines the term "nontraditional mortgage"; specifies new examples of false, misleading or deceptive advertising concerning an adjustable rate, no interest, or payment-option loan and loan products with few restrictions on eligibility; and provides notice of the Commissioner's intention to prepare a version of the form specified in CCR, title 10, section 2840.1, that includes supplemental information based upon the new restrictions on advertising adopted in section 2848, subdivision (a)(17).

Title 10

California Code of Regulations

ADOPT: 2842 AMEND: 2848

Filed 08/29/07

Effective 09/28/07

Agency Contact: David B. Seals (916) 227-0789

DEPARTMENT OF REAL ESTATE

The regulatory action deals with time shares, financial disclosures, mortgage loan reports and continuing education.

Title 10

California Code of Regulations

ADOPT: 3007.05, 3007.2 AMEND: 2805, 2809.3, 2840, 2849.01, 3005, 3006, 3007.3, 3011.4 REPEAL: 2840.1

Filed 08/29/07

Effective 09/28/07

Agency Contact: David B. Seals (916) 227-0789

DEPARTMENT OF REHABILITATION

Development of the Individualized Plan for Employment (IPE)

This regulatory action deals with the development of the Individualized Plan for Employment.

Title 9

California Code of Regulations

AMEND: 7128

Filed 08/27/07

Effective 08/27/07

Agency Contact:

Kelly Hargreaves (916) 263-8975

DIVISION OF LABOR STATISTICS AND RESEARCH

Log and Summary of Work-Related Injuries and Illnesses

This file is submitted as a change without regulatory effect for processing under section 100 proposed by the Department of Industrial Relations seeking to amend Title 8, sections 14300.10, 14300.12, 14300.29, and 14300.46, Appendices A, B, D, E to be consistent with the current U.S. Department of Labor Occupational Safety and Health Administration form for recording occupational injuries and illnesses. The proposed revisions to 14300.10, 14300.12, 14300.29, and 14300.46, Appendices A, B, D, E are without regulatory effect.

Title 8

California Code of Regulations

AMEND: 14300.10, 14300.12, 14300.29, 14300.46

Filed 08/22/07

Agency Contact: Ramon Cruz (415) 703-4757

FISH AND GAME COMMISSION

Upland Game Bird Hunting

This regulatory action revises the upland game bird hunting provisions to require that all game birds being transported have a fully feathered wing or head attached, include Eurasian collared doves as a resident game bird, revise the quotas for sage grouse, add an additional spring season for hunters with a junior hunting license, and make other clarifying changes.

Title 14

California Code of Regulations

AMEND: 251.7, 257, 300, 600

Filed 08/29/07

Effective 09/01/07

Agency Contact: Jon Snellstrom (916) 653-4899

FISH AND GAME COMMISSION

Marine Protected Areas

California Fish and Game Commission is amending regulations pursuant to the Marine Life Protection Act

(MLPA) to preserve and designate additional marine protected areas (MPAs) on the Central Coast of California. This is the first step in the state's implementation of the Marine Life Protection Act (MLPA) Program, which was designed to better conserve marine resources for their long-term sustainability while also allowing outdoor recreation and ocean research opportunities along the coast. This action establishes approximately 204 sq. miles of state waters (about 18%) with 85 sq. miles designated as no-take reserves along the Central Coast from Pigeon Point in San Mateo to Point Conception in Santa Barbara. The adopted changes also provide for various fishing and kelp harvesting provisions in certain areas.

Title 14

California Code of Regulations

AMEND: 165, 632

Filed 08/22/07

Effective 09/21/07

Agency Contact: Sherrie Koell (916) 653-4899

MEDICAL BOARD OF CALIFORNIA

Special Programs—Foreign Trained Physicians

This regulatory action implements and makes specific AB 2260 which amended sections 2111, 2113, 2168 and 2168.5 of the Business & Professions Code. It provides application and supervision criteria to approve foreign-trained physicians for postgraduate study and faculty positions. This action also specifies the criteria for selection of members of the review committee responsible for advising the Director on special program faculty permits.

Title 16

California Code of Regulations

ADOPT: 1315.03, 1326 AMEND: 1325.4

Filed 08/28/07

Effective 09/27/07

Agency Contact:

Kevin A. Schunke (916) 263-2368

MEDICAL BOARD OF CALIFORNIA

Fees — Special Programs — Foreign Trained Physicians

This action adopts the initial and renewal fees for applications for approval of foreign-trained physicians for postgraduate study or faculty positions.

Title 16

California Code of Regulations

ADOPT: 1351.1

Filed 08/28/07

Effective 09/27/07

Agency Contact: Kevin A. Schunke (916) 263-2368

**STATE WATER RESOURCES CONTROL BOARD
Emergency Regulations to Implement Water Code Section 13260(f)**

This emergency regulatory action is the establishment of annual fees assessed persons issued waste discharge permits to conform to the revenue levels set forth in the Budget Act. Water Code section 13260, subdivision (f), requires that the fee schedules be adopted as an emergency and that the emergency shall be considered by OAL as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Additionally, any emergency regulations adopted by the State Board or adjustments to the annual fees made by the State Board pursuant to section 13260, subdivision (f), shall not be subject to review by OAL and shall remain in effect until revised by the State Board.

Title 23

California Code of Regulations

AMEND: 2200, 2200.2, 2200.3, 2200.4, 2200.6 REPEAL: 2201

Filed 08/27/07

Effective 08/27/07

Agency Contact: Miles Burnett (916) 341-6997

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN MARCH 28, 2007 TO
AUGUST 29, 2007**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/09/07 AMEND: 270

06/28/07 AMEND: 2616

Title 2

08/03/07 AMEND: 58800

08/02/07 ADOPT: 1700

07/18/07 ADOPT: 7288.0, AMEND: 7288.0, 7288.1, 7288.2, 7288.3

07/18/07 AMEND: 18361.2, 18361.4

07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866

07/17/07 AMEND: 1859.2

07/02/07 ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322,

1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329

07/02/07 ADOPT: 18531.62 AMEND: 18544, 18545

06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106

06/15/07 AMEND: div. 8, ch. 111, sec. 59560

06/13/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37

05/23/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80

05/21/07 AMEND: 18402

05/17/07 AMEND: 52900

05/17/07 ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2, 1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1 AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167, 1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1

05/14/07 AMEND: 599.664

05/08/07 ADOPT: 1185.2, 1185.3, 1185.4 AMEND: 1185, 1185.01 (renumbered to 1185.1), 1185.02 (renumbered to 1185.5), 1185.03 (renumbered to 1185.6), 1185.1 (renumbered to 1185.7)

05/08/07 AMEND: div. 8, ch. 48, sec. 53700

04/30/07 AMEND: 1859.124.1

04/25/07 AMEND: 1859.83, 1859.202, 1866

04/16/07 AMEND: 18401

04/04/07 AMEND: 28010 REPEAL: 36000

Title 3

08/21/07 AMEND: 3434

08/10/07 ADOPT: 3152

07/24/07 AMEND: 3591.6(a)(1)

07/23/07 AMEND: 3589(a)

07/20/07	AMEND: 3591.6(a)(1)	07/27/07	AMEND: 50500
07/20/07	AMEND: 3423(b)	07/17/07	AMEND: 58704, 58770, 587714, 58774, 58776, 58777 REPEAL: 58785
07/18/07	AMEND: 3434(b)	07/17/07	ADOPT: 52000, 52010, 55003, 55007, 55020, 55021, 55022, 55023, 55024, 55025, 55030, 55031, 55032, 55033, 55034, 55035, 55040, 55041, 55042, 55043, 55044, 55050, 55051, 55052, 55060, 55061, 55062, 55063, 55064, 55070, 55072, 55080, 55100, 55130, 55150, 55
07/13/07	AMEND: 3591.20(a)	06/05/07	AMEND: 19802
07/09/07	AMEND: 3433(b)	06/04/07	ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8, 11996.9, 11996.10, 11996.11
07/06/07	AMEND: 3589(a)	06/01/07	REPEAL: 41916
07/06/07	AMEND: 3591.2(a)	05/30/07	ADOPT: 30920, 30921, 30922, 30923, 30924, 30925, 30926, 30927
06/21/07	AMEND: 3434(b), 3434(c)	05/18/07	ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854
06/13/07	ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793	05/11/07	AMEND: 30023(c)
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08/07/07 ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588 AMEND: 11-400c, 11-402, 45-101(c), 45-202.5, 45-203.4, 45-301.1

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08/27/07 AMEND: 2200, 2200.2, 2200.3, 2200.4,
2200.6 REPEAL: 2201
08/21/07 ADOPT: 3979.2
08/20/07 ADOPT: 3979.3
08/16/07 ADOPT: 3939.26
08/15/07 AMEND: 3939.10
08/14/07 ADOPT: 3939.25
08/09/07 ADOPT: 3949.4
08/02/07 ADOPT: 3967
06/27/07 ADOPT: 3002
06/19/07 ADOPT: 3949.3
05/21/07 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2,
499.6.3 AMEND: 499.1, 499.2, 499.3,
499.4, 499.4.1, 499.5, 499.6, 499.6.1,
499.7, 499.8 REPEAL: 499.6.2
05/18/07 ADOPT: 3959
05/18/07 ADOPT: 3958
05/01/07 AMEND: 645
04/25/07 AMEND: 3983
04/06/07 AMEND: 737, 768, 769, 770, 771, 852

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07/06/07 AMEND: 5060, 5061, 5062, 5064, 5520,
5521, 5530, 5540.1, 5575
05/23/07 AMEND: 6932
04/05/07 ADOPT: 7065.5

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08/21/07 ADOPT: 20939 AMEND: 20918, 20919,
20920, 20921, 20923, 20925, 20931,
20932, 20933, 20934, 20937 REPEAL:
20919.5
04/13/07 ADOPT: 15186, 15187, and 15188
AMEND: 15100, 15110, 15120, 15130,
15150, 15160, 15170, 15180, 15185,
15187.1 (renumber to 15189), 15190,
15200, 15210, 15220 (amendment and
renumbering of 15210(b) to 15220(a)),
15240, 15241, 15250, 15260, 15270,
15280, 15290

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07/30/07 AMEND: 47–201, 47–401
06/26/07 AMEND: 40–118, 43–103, 44–209,
80–301, 82–808
06/25/07 AMEND: 47–110 and 47–301